

EXHIBIT 13

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SZ DJI TECHNOLOGY CO., LTD.)	
AND DJI EUROPE B.V.,)	
)	
Plaintiffs,)	
)	
v.	)	C.A. No. 16-706-LPS
	)	(CONSOLIDATED)
AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Defendants.)	

AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Counterclaim Plaintiffs,)	
)	
v.)	
)	
SZ DJI TECHNOLOGY CO., LTD.,)	
DJI EUROPE B.V., AND DJI)	
TECHNOLOGY INC.,)	
)	
Counterclaim Defendants.)	

**DEFENDANTS' MOTION *IN LIMINE* NO. 1 TO PRECLUDE PLAINTIFFS FROM
CALLING UNTIMELY WITNESSES
LEXIE MA AND RICHARD DISSMANN AT TRIAL**

Dated: July 21, 2021

YOUNG CONAWAY STARGATT &
TAYLOR, LLP

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Autel Robotics Co., Ltd.)*

Autel moves to preclude DJI's late-disclosed witnesses, Lexie Ma and Richard Dissmann, from testifying at trial. DJI's counsel has indicated that DJI intends to introduce the company through Ms. Ma and may offer Mr. Dissmann to explain certain German proceedings¹. But DJI's identification of these witnesses comes far too late – *years* late. Though Ms. Ma appears to be a high-ranking, seven-year DJI employee, and by DJI's admission has relevant knowledge of many aspects of DJI's business, "*especially with respect to the United States*," (Ex. B at 6), DJI never identified her during fact discovery. As to Mr. Dissmann, it remains unclear what, if any, relevant and non-prejudicial issues he could testify to.

Fact discovery ended almost two years ago on September 27, 2019. (D.I. 390). Without any prior notice to Autel, DJI disclosed Ms. Ma for the very first time in this case in a supplement to its Initial disclosures on April 27, 2021, and Mr. Dissmann on its proposed trial witness list on June 29, 2021. Ex. B at 6; Ex. C (Witness List). This was untimely and in violation of the case's scheduling orders and at least FRCP 26(a). *See, e.g., B. Braun Melsungen AG v. Terumo Med. Corp.*, 749 F. Supp. 2d 210, 221 (D. Del. 2010) (Stark, J.); *Integra LifeSciences Corp. v. Hyperbranch Med. Tech., Inc.*, C.A. No. 15-819-LPS-CJB, 2018 WL 3814614, at *1 (D. Del. Mar. 23, 2018)²; *see also Liqwd, Inc. v. L'Oreal USA, Inc.*, C.A. No. 17-14-JFB-SRF, 2019 WL 7945247, at *1-2 (D. Del. June 25, 2019) (substantial justification and harmlessness of untimely disclosure are considered according to the timeliness of the party's actions). Both witnesses should be excluded from testifying at trial under FRCP 37(c)(1) and the *Pennypack* factors, all of which

¹ For the same reason, any reference to these German proceedings should be precluded at trial as there has been no indication of its relevance, or what it even entails.

² Additionally, "[c]ourts applying the *Pennypack* factors in the case of sophisticated, complex litigation involving parties represented by competent counsel have been less indulgent in their application and more willing to exclude evidence without a strict showing that each of the *Pennypack* factors has been satisfied." *Bridgestone Sports Co. Ltd. v. Acushnet Co.*, C.A. No. 05-132 JJF, 2007 WL 521894, at *4 (D. Del. Feb. 15, 2007).

weigh in favor of exclusion, as explained below.

I. Ms. Ma Should Be Precluded from Testifying at Trial.

Surprise or Prejudice to Autel. DJI's late disclosure of Ms. Ma, a new fact witness who would testify live at trial, nearly two years after the close of fact discovery was not only a surprise but presents a clear prejudice to Autel. DJI served its first Rule 26(a) disclosures over four years ago, listing *ten* DJI individuals (excluding five outside counsel knowledgeable about the asserted patents' prosecution), but *not Ms. Ma* although she was a DJI employee at the time and had become the "Head of Consumer Marketing, North America" in May 2019, four months before fact discovery closed. Ex. D at 2-5; *see also* Ex. A. DJI then twice-updated these disclosures in 2018 and again in 2019, but again without identifying Ms. Ma. Ex. E at 3-5; Ex. F at 3-10; Ex. G at 3-9. Autel expended significant resources during fact discovery deposing identified witnesses, but had no chance to depose Ms. Ma or seek discovery into her records. In fact, the only records DJI has produced from Ms. Ma – all within the last month – are self-serving documents dating back to 2014 and 2015, such as pictures showing Ms. Ma posing with DJI products. Ex. H (samples from DJI's 6/10/2021 production); Ex. I (file names for DJI 6/10/2021 production). Thus, any testimony and the new documents, especially from Ms. Ma regarding DJI's products, secondary considerations, corporate accolades, or corporate citizenship – which testimony could span more than seven years of her association with DJI and all of which have never been disclosed to or explored by Autel – would be highly prejudicial. Autel has had no chance, and has no time, to properly prepare for her cross examination or even deposition.

Autel's Inability to Cure Prejudice; Disruption to Order & Efficiency of Trial. Adding Ms. Ma to the case at this juncture will disrupt the trial schedule. With trial starting in less than a month, and having received none of Ms. Ma's documents except for some of her pictures, Autel cannot properly cure its prejudice. Autel should not be penalized in the middle of trial preparations,

over a witness that DJI has long known about and apparently hidden from discovery. *See, e.g., Liqwd*, 2019 WL 7945247, at *2 (party “did not timely disclose trial witnesses and there is no way to cure the prejudice at this late date”).

Potential Bad Faith or Willfulness in Failing to Comply. DJI has offered no reasonable explanation for disclosing Ms. Ma *years* after the close of discovery, citing during the meet & confer conference vaguely only the natural come-and-go of DJI employees as a justification. But the timing of its disclosure belies that claim, especially when those employees disclosed by DJI who left did so years ago, *before* close of fact discovery. *See, e.g., Ex. J at 1 (Guardant Health, Inc. v. Found. Med., Inc. C.A. No. 17-1616-LPS-CJB (D. Del. Apr. 28, 2020) (“The Court has to infer that FMI made a knowing decision to take months and months to disclose a new witness, well after the fact discovery cutoff, presumably thinking that such delay would be countenanced.”).*

Importance of the Testimony Sought to Be Excluded. DJI has not suggested that Ms. Ma’s testimony is critical to any issues in the case, only that she would introduce the company to the jury. Yet DJI is free to use any of its remaining employees it had properly disclosed as corporate witness. Furthermore, an “introduction” to the jury is simply not the type of evidence that “might ultimately” lead to a different judgment as contemplated by the Third Circuit. *See Meyers v. Pennypack Woods Home Ownership Ass’n*, 559 F.2d 894, 904 (3d Cir. 1977).

II. Mr. Dissmann Should Be Precluded from Testifying at Trial.

Each of the *Pennypack* factors applies with equal, if not more, force to Mr. Dissmann. He was never included in Rule 26(a) disclosures, the scope of any relevant testimony remains unknown, and, in any event, any alleged relevance of German proceedings DJI may cite is far outweighed by the prejudice to Autel (FRE 403).³

³ *See* n.1, *supra*.

Dated: July 21, 2021

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LIST OF EXHIBITS TO AUTEL'S MOTION *IN LIMINE* NO. 1

Exhibit	Description
A	Lexie Ma's Linked-In Profile
B	DJI's Fourth Supplemental Initial Disclosures dated April 27, 2021
C	Plaintiffs' Witness List served on June 29, 2021
D	DJI's Initial Disclosures dated February 24, 2017
E	DJI's Supplemental Initial Disclosures dated May 11, 2018
F	DJI's Second Supplemental Initial Disclosures dated July 13, 2018
G	DJI's Third Supplemental Initial Disclosures dated April 12, 2019
H	Example Documents from DJI's June 10, 2021 production (photos of Lexie Ma with DJI in 2014, 2015 and 2016 produced on 6-10-2021 and labeled DJIATL_2000001, DJIATL_2000002, DJIATL_2000004 and DJIATL_2000014)
I	File names for documents included in DJI's June 10, 2021 production, including samples reproduced in Exhibit H (highlighted)
J	Oral Order in 17-cv-01616 dated 4-28-2020 regarding Motion <i>in Limine</i>

CERTIFICATE OF SERVICE

I, Anne Shea Gaza, hereby certify that on July 16, 2021, I caused a true and correct copy of the foregoing document to be served on the following counsel in the manner indicated:

BY E-MAIL

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Dated: July 21, 2021

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Autel Robotics Co., Ltd.)*

EXHIBIT A

Contact

www.linkedin.com/in/lexie-hui-ma-993a4364 (LinkedIn)

Top Skills

Microsoft Excel
Mandarin
Microsoft Office

Languages

English (Full Professional)
Mandarin (Native or Bilingual)
Cantonese (Full Professional)

Lexie (Hui) Ma

Head of Consumer Marketing, North America at DJI
United States

Experience

DJI

7 years

Head of Consumer Marketing, North America
May 2019 - Present (2 years 3 months)

Washington D.C. Metro Area / Los Angeles

Head of Consumer Drone Business Unit

January 2018 - April 2019 (1 year 4 months)

Shenzhen, Guangdong, China

PR and Marketing Manager

August 2014 - December 2017 (3 years 5 months)

Shenzhen, Guangdong, China

Edelman

Technology Practice

2014 - 2014 (less than a year)

Education

The University of Hong Kong

Bachelor of Social Sciences, Double major in Psychology and Fine Arts · (2011 - 2014)

Harvard Business School Online

CORe Credential of Readiness · (2020 - 2021)

University of Cambridge

Pembroke King's Exchange Programme · (2013 - 2013)

Mount Holyoke College

Exchange Programme · (2013 - 2013)

Zhejiang University

Prep year · (2010 - 2011)

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and
AUTEL AERIAL TECHNOLOGY CO.,
LTD.,

Defendants.

C.A. No. 16-706-LPS
(Consolidated)

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Counterclaim Plaintiffs,

v.

SZ DJI TECHNOLOGY CO., LTD., DJI
EUROPE B.V., and DJI TECHNOLOGY,
INC.,

Counterclaim Defendants.

DJI'S FOURTH SUPPLEMENTAL INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Plaintiffs and Counterclaim Defendants SZ DJI Technology Co., Ltd. and DJI Europe B.V. and Counterclaim Defendant DJI Technology, Inc. (collectively, "DJI") hereby serve the following fourth supplemental initial disclosures to Defendants and Counterclaim Plaintiffs Autel Robotics USA LLC and Autel Robotics Co., Ltd. (f/k/a Autel Aerial Technology Co., Ltd.) (collectively, "Autel" or "Counterclaim Plaintiffs"). These disclosures are based upon information presently and

reasonably known and available to DJI as of the date hereof, and currently within its possession, custody or control. DJI reserves the right to supplement or amend these disclosures in the future as appropriate, as provided in Rule 26(e), as additional information becomes available during the course of the above-captioned case.

These initial disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, or any other proper ground; (2) the right to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; (3) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures; and (4) the right to amend, modify, clarify, or supplement the information contained herein in the event it obtains additional information, to the extent required by the Federal Rules of Civil Procedure.

Subject to and without waiving the foregoing reservations, DJI makes the following supplemental initial disclosures.

1. Identities of Individuals Likely to Have Discoverable Information That May Be Used to Support DJI's Claims or Defenses.

All individuals listed below whose contact information states "DJI's Counsel" are employees or former employees of DJI and may be contacted only through trial counsel for DJI at Morgan, Lewis & Bockius LLP. The general subject matter listed for each individual does not in any way limit DJI's right to question or call any individual listed to testify regarding any other subject.

In addition to the persons listed below, DJI reserves the right to rely upon all individuals and/or entities listed in Autel's initial disclosures and any supplements or amendments thereto. DJI expressly reserves the right to identify or call as witnesses other individuals in addition to

those identified herein, if it discovers that such individuals have or might have knowledge of matters relevant to this action. DJI also expressly reserves the right to identify and call expert witnesses in accordance with Federal Rule of Civil Procedure 26(a)(2) and any scheduling order entered in this action.

Name	Contact Information	Subject
Tao Wang	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514, and is likely to have knowledge about the claimed inventions.
Shaojie Chen	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, and is likely to have knowledge about the claimed inventions. Mr. Chen is no longer employed by DJI.
Tao Zhao	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530, and is likely to have knowledge about the claimed inventions.
Zhi Gang Ou	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530, and is likely to have knowledge about the claimed inventions. Mr. Ou is no longer employed by DJI.
Yin Cheung	DJI's Counsel	Prosecution of the application for U.S. Patent No. 9,016,617.
Elaine K. Lee	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530.

Name	Contact Information	Subject
Karen Wong	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the application for U.S. Patent No. 9,016,617.
Connie Cheng	Perkins Coie 1201 Third Avenue, Suite 4900 Seattle, WA 98101-3099	Prosecution of the application for U.S. Patent No. 9,016,617.
Hin Meng Au	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,284,049, and 9,321,530.
Feng Ma	Syncoda LLC 208 Euphoria Cir. Cary, NC 27519	Prosecution of the applications for U.S. Patent Nos. 9,284,049 and 9,321,530.
Yuanyuan (Elsa) Ma	DJI's Counsel	DJI's sales, financials (sales, margins, and costs), and pricing, including for DJI's accused products. Ms. Ma is no longer employed by DJI.
Chaowei (Allen) Zheng	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products, including for DJI's accused products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p> <p>Mr. Zheng is no longer employed by DJI.</p>

Name	Contact Information	Subject
Ye (Allen) Han	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Zhe (Philip) Wang	DJI's Counsel	<p>Technical and design aspects of DJI products.</p> <p>Bases for damages.</p> <p>Previous litigation involving asserted patents (China included).</p> <p>Revenue and profits/losses attributable to sales of products using patented technology.</p> <p>Sales information related to DJI products.</p> <p>License and licensing activities and royalties information.</p> <p>Secondary considerations of nonobviousness.</p> <p>Valuation of asserted patents.</p> <p>DJI's pricing.</p> <p>DJI document retention policy.</p>

Name	Contact Information	Subject
		Mr. Wang is no longer employed by DJI.
Michael Perry	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products, including for DJI's accused products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p> <p>Mr. Perry is no longer employed by DJI.</p>
Lexie Ma	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products, especially with respect to the United States.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Litian Zhang	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 7,979,174.

Name	Contact Information	Subject
Bin Jiang	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 9,260,184.
Rongming Xiong	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 9,979,000.
Individuals at each Autel entity named in this suit		<p>Knowledge of: (i) the design, development, functionality, and operation of Defendants' accused products; (ii) past and potential future sales, revenues, and profits relating to Defendants' accused products; (iii) advertising and promotion of Defendants' accused products; (iv) advantages and benefits offered by Defendants' accused products over the prior art and/or competing products; (v) customer implementations and uses of Defendants' accused products and interactions with customers regarding same; (vi) the value of the patented inventions; (vii) the marketplace for Defendants' accused products and competing products; (viii) notice of the patents-in-suit; and (ix) willful infringement of the patents-in-suit.</p> <p>In addition, knowledge of: (i) operations of Counterclaim-Plaintiffs; (ii) Counterclaim-Plaintiffs' claims and purported damages in this action; (iii) licensing policies and practices of Counterclaim Plaintiffs; (iv) the disclosure of prior art to the USPTO; (v) ownership of Counterclaim Plaintiffs' asserted patents; (vi) marking of</p>

Name	Contact Information	Subject
		Counterclaim Plaintiffs' asserted patents on practicing products; (vii) predecessor-in-interest to Counterclaim Plaintiffs' asserted patents; and (viii) licensees of Counterclaim Plaintiffs' asserted patents.
Kingsley O.C. Fregene	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Michael R. Elgersma	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Samar Dajani-Brown	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Stephen G. Pratt	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Scott V. Lundberg	Fogg & Powers LLC 4600 West 77th Street Suite 305 Minneapolis, MN 55435	Scott Lundberg signed filings with the USPTO during prosecution of U.S. Patent No. 7,979,174 and is likely to have knowledge about prosecution of U.S. Patent No. 7,979,174.
Jay A. Wahlquist	International Business Machines Corporation 3605 HWY 52 N Rochester, MN 55901	Jay Wahlquist signed filings with the USPTO during prosecution of U.S. Patent No. 7,979,174 and is likely to have knowledge about prosecution of U.S. Patent No. 7,979,174.

Name	Contact Information	Subject
Representatives of Fogg & Powers LLC	5810 W. 78th Street, Ste. 100 Minneapolis, MN 55439	Prosecution of the application for U.S. Patent No. 7,979,174.
Representatives of Honeywell International Inc.	101 Columbia Road Law Dept. AB2 Morristown, NJ 07962	Previous owner of U.S. Patent No. 7,979,174 and is likely to have information regarding its ownership.
Kurt Luther	Honeywell International Inc. 101 Columbia Road Law Dept. AB2 Morristown, NJ 07962	Assistant General Counsel of Honeywell International, Inc. and signatory of the Honeywell Patent Purchase Agreement regarding U.S. Patent No. 7,979,174. Mr. Luther may have information regarding the ownership of the '174 patent.
Orville Olm	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions.
Greg Wood	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions.
Zenon Dragan	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions. Mr. Dragan also may have information regarding the ownership of the '184 patent.
Joseph A. Rhoa	Nixon & Vanderhye, P.C. 901 N. Glebe Road Arlington, VA 22203	Joseph A. Rhoa signed filings with the USPTO during prosecution of U.S. Patent No. 9,260,184 and is likely to have knowledge about prosecution of U.S. Patent No. 9,260,184.

Name	Contact Information	Subject
Representatives of Nixon & Vanderhye P.C.	901 N. Glebe Road Arlington, VA 22203	Prosecution of the application for U.S. Patent No. 9,260,184.
Representatives of Ladas & Parry LLP	224 South Michigan Ave Suite 1600 Chicago, IL 60604	Prosecution of the applications for U.S. Patent Nos. 7,979,174 and 9,260,184.
Representatives at Draganfly Innovations Inc.	2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Previous owner of U.S. Patent No. 9,260,184 and is likely to have information regarding its ownership.
Glen Hawker	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Executive Chairman of the Board of Draganfly Innovations Inc. and signatory of the Autel Patent Purchase Agreement regarding U.S. Patent No. 9,260,184. Mr. Hawker may have information regarding the ownership of the '184 patent.
Longxue Qiu	9th Floor, Building B1, Zhiyuan, Xueyuan Road Xili, Nanshan District Shenzhen, Guangdong 518055 China	Named inventor for U.S. Patent No. 9,979,000 and is likely to have knowledge about the claimed invention.
Xingwen Wu	9th Floor, Building B1, Zhiyuan, Xueyuan Road Xili, Nanshan District Shenzhen, Guangdong 518055 China	Named inventor for U.S. Patent No. 9,979,000 and is likely to have knowledge about the claimed invention.
Richard John Streit	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Richard John Streit signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Hermine Valizadeh	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Hermine Valizadeh signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.

Name	Contact Information	Subject
Adam Vincent Litteken	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Adam Vincent Litteken signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Ladas & Parry LLP	224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Ladas & Parry LLP is or was listed at the USPTO as counsel-of-record for U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.

Other individuals not specifically known to DJI at this time may possess relevant information, particularly information related to the non-infringement, unenforceability and/or invalidity of U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000 (“Autel Asserted Patents”). Such individuals may include, but are not limited to: (1) authors of prior art publications and patents relevant to the subject matter of the Autel Asserted Patents; (2) individuals having knowledge of any prior art use, sale, offer for sale, or invention relevant to the subject matter of the Autel Asserted Patents; (3) individuals having knowledge of the level of ordinary skill in the art to which the alleged inventions pertain; (4) individuals having knowledge of any license to the Autel Asserted Patents, any offer to license the Autel Asserted Patents, or any refusal to license the Autel Asserted Patents; (5) individuals having knowledge of the circumstances or manner in which the alleged inventions are disclosed in the Autel Asserted Patents; (6) individuals having knowledge of the inventorship, ownership, or rights in the Autel Asserted Patents and/or the subject matter of the Autel Asserted Patents; (7) individuals affiliated with prosecuting attorneys during the time that each attorney’s respective firm was involved in the prosecution of the Autel Asserted Patents; (8) individuals having knowledge of the operation and development of the accused DJI products; and (9) licensees of the Autel Asserted Patents.

2. Documents and Things in the Possession, Custody, or Control of DJI That May Be Used to Support DJI's Claims.

DJI has in its possession, custody or control the following categories of documents, electronically stored information, and tangible things that DJI may use to support its claims. The disclosure provided herein is based upon information reasonably available at this time. Documents protected by attorney-client and attorney work product privileges are not identified, categorized, or included herein. By disclosing the following categories of documents, DJI does not waive any objections that it has or may have to the production or admissibility of these documents. Moreover, by disclosing the following categories of documents, DJI does not waive any objections that it has or may have to producing these documents. Further, by disclosing the following categories of documents, DJI does not admit or deny that any such documents exist. DJI expressly reserves the right to identify additional documents, electronically stored information, and/or tangible things, if it discovers that such additional documents, electronically stored information, and/or tangible things are relevant to this action.

- Documents relating to U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514 including their prosecution file histories, and foreign counterparts thereto;
- Documents relating to DJI's advertising, marketing and sales of its products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514;
- Documents and things relating to the development and manufacture of DJI's products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514;
- Documents relating to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000, including their prosecution file histories and foreign counterparts thereto;
- Prior art to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the design, development, features, production, distribution and operation of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;

- Documents relating to the sales and finances of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the marketing and advertising of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to Autel's advertising, marketing and sales of its products;
- License agreements relating to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to assignment(s) of U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents identified in Autel's initial disclosures, discovery responses and any amendments thereto;
- Documents relating to the commercial unmanned vehicle industry and technology;
- Communications between DJI and Autel; and
- Communications between Autel and third parties.

These documents, to the extent their locations are known, are located either at the offices of DJI or its counsel.

3. Computation of Damages

DJI is currently seeking both an injunction and damages in the case. DJI seeks damages adequate to compensate for Defendants' infringement. DJI anticipates seeking its lost profits, including any lost sales, price erosion, and lost convoyed sales and derivative sales, as damages for Defendants' infringement of DJI's Patents-in-Suit for all past, current and future time periods during which Defendants are liable for such infringement. In the event DJI is not awarded its lost profits, DJI will seek damages in the form of a reasonable royalty for Defendants' infringement of DJI's Patents-in-Suits for all past, current and future time periods during which Defendants are liable for such infringement. In either event, DJI will seek interest and costs as fixed by the Court. DJI has provided a detailed computation of damages in Michele M. Riley's Expert Reports on

Damages dated December 22, 2017, February 16, 2018, December 27, 2019, February 3, 2020, and March 25, 2020 and will provide any supplemental computation of damages after any additional damages-related discovery, including information relating to sales of Defendants' accused products, is made available by Defendants and after such information has been evaluated by an expert witness. As this is an exceptional case, DJI also seeks reasonable and necessary attorneys' fees. DJI further seeks treble damages to compensate DJI for Defendants' willful infringement. To the extent allowable by law, DJI seeks its attorneys' fees, costs, expenses, and pre- and post-judgment interest, and such other relief as the Court may deem appropriate either at law or in equity.

In accordance with Federal Rule of Civil Procedure 26(a)(1)(A)(iii), DJI has made available for inspection and copying, as required under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which DJI's damages computation is based and will make additional documents available, if any exist. DJI will also produce documents relating to its attorneys' fees, costs, and expenses in connection with its request for such an award at the appropriate time.

DJI has already provided its expert report on damages for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514. DJI will provide any expert reports on damages for U.S. Patent Nos. 7,979,174 9,260,184, and 9,979,000 in accordance with the schedule in this Action.

4. Insurance Agreements

Upon current information and belief, DJI is unaware of any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

Dated: April 27, 2021

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*Attorneys for Plaintiffs and Counterclaim
Defendants SZ DJI Technology Co. Ltd. and
DJI Europe B.V. and Counterclaim
Defendant DJI Technology, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2021, a true and correct copy of the foregoing document was served, via e-mail, on the following:

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/s/ Amy M. Dudash
Amy M. Dudash (#5741)

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD. and DJI
EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants/Counterclaim Plaintiffs,

v.

DJI TECHNOLOGY INC., SZ DJI
TECHNOLOGY CO., LTD., and DJI
EUROPE B.V.,

Counterclaim Defendants.

C.A. No. 16-706-LPS
(Consolidated)

EXHIBIT 4P

PLAINTIFFS' WITNESS LIST

Exhibit 4P
Plaintiffs' Witness List

Pursuant to Local Rule 16.3(c)(7), DJI hereby respectfully submits its list of witnesses it expects it may call to testify at trial live or by deposition, without prejudice to the right to remove or add any witness. DJI reserves the right to call any rebuttal witness not identified on its list, as may be necessary. If a witness designated as appearing live is unable to appear, DJI reserves the right to designate deposition testimony for such witness.

DJI reserves the right to supplement, amend, or modify its witness list prior to or during trial based on case developments and/or in light of any order regarding the scope of the trial. DJI includes in this witness list individuals who may be listed on Defendants' witness list, and otherwise reserves the right to call any witness that appears on Defendants' witness list, without waiving any right to object to Defendants' presentation of such witnesses at trial, without waiving any objections to the admissibility of such testimony, and without waiving the right to move for the exclusion of any such testimony. If Defendants challenge the authenticity of any documents, articles, or things presented by DJI at trial, DJI reserves the right to call additional witnesses as may be required solely for document authentication. DJI also reserves the right to substitute witnesses should one of the individuals listed in this disclosure not be available at the time of trial. The inclusion of a witness on this list does not require DJI to call that witness to testify.

Subject to, and without waiving the foregoing rights and objections, at this time DJI identifies the following preliminary list of trial witnesses it may call to testify before the jury:

I. WITNESSES PLAINTIFFS EXPECT TO CALL

A. Fact Witnesses

1. Cheng, Zhuanpeng (deposition)
2. Dissmann, Richard (live)

Exhibit 4P
Plaintiffs' Witness List

3. Juntian, Jiang (deposition)
4. Liang, Zeng (deposition)
5. Longxue, Qiu (deposition)
6. Ma, Lexie (live)
7. McIrvin, Stephen (deposition)
8. Pan, Xiangxi (deposition)
9. Perry, Michael (deposition)
10. Powell, Jeff (deposition)
11. Songtao, Chang (deposition)
12. Wang, Zhe (Philip) (live or by deposition)
13. Zhang, Yun (deposition)
14. Zhao, Tao (live or by deposition)

B. Expert Witnesses

1. Michael Braasch (live)
2. Jason Janét (live)
3. Michele Riley (live)

DJI provides the following statements regarding the subject matter on which it will ask the Court to recognize each expert's expertise.

Expert	Subject Matter of Expertise
Michael Braasch	Design patent infringement and validity; aviation technology, including unmanned aerial vehicles.
Jason Janét	Patent infringement and validity; aviation technology, including unmanned aerial vehicles.
Michele Riley	Damages for patent infringement, including reasonable royalty and lost profits.

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC,
AUTEL AERIAL TECHNOLOGY CO.,
LTD., and AUTEL INTELLIGENT
TECHNOLOGY CO., LTD.,

Defendants.

C.A. No. 16-706-LPS-CJB

SZ DJI TECHNOLOGY CO., LTD. AND DJI EUROPE B.V.’s INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Plaintiffs SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, “DJI”) hereby serve the following initial disclosures to Defendants Autel Robotics USA LLC, Autel Aerial Technology Co., Ltd. and Autel Intelligent Technology Co., Ltd. (collectively, “Autel”). These disclosures are based upon information presently and reasonably known and available to DJI as of the date hereof, and currently within its possession, custody or control. DJI reserves the right to supplement or amend these disclosures in the future as appropriate, as provided in Rule 26(e), as additional information becomes available during the course of the above-captioned case.

These initial disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, or any other proper ground; (2) the right to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; (3) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of

these disclosures; and (4) the right to amend, modify, clarify, or supplement the information contained herein in the event it obtains additional information, to the extent required by the Federal Rules of Civil Procedure.

Subject to and without waiving the foregoing reservations, DJI makes the following initial disclosures.

1. Identities of Individuals Likely to Have Discoverable Information That May Be Used to Support DJI's Claims or Defenses.

All individuals listed below whose contact information states "Anova" are employees or former employees of DJI and may be contacted only through trial counsel for DJI at Anova Law Group PLLC. The general subject matter listed for each individual does not in any way limit DJI's right to question or call any individual listed to testify regarding any other subject.

In addition to the persons listed below, DJI reserves the right to rely upon all individuals and/or entities listed in Autel's initial disclosures. DJI expressly reserves the right to identify or call as witnesses other individuals in addition to those identified herein, if it discovers that such individuals have or might have knowledge of matters relevant to this action. DJI also expressly reserves the right to identify and call expert witnesses in accordance with Federal Rule of Civil Procedure 26(a)(2) and any scheduling order entered in this action.

Name	Contact Information	Subject
Tao Wang	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, and is likely to have knowledge about the claimed inventions.
Shaojie Chen	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, and is likely to have knowledge about the claimed inventions.

Name	Contact Information	Subject
Tao Zhao	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530, and is likely to have knowledge about the claimed inventions.
Zhigang Ou	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530, and is likely to have knowledge about the claimed inventions.
Yin Cheung	DJI Research LLC 435 Portage Avenue Palo Alto, CA 94306	Prosecution of the application for U.S. Patent No. 9,016,617.
Elaine Lee (Kim)	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530.
Karen Wong	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the application for U.S. Patent No. 9,016,617.
Connie Cheng	Wilson Sonsini Goodrich & Rosati 701 Fifth Avenue, Suite 5100 Seattle, WA 98104	Prosecution of the application for U.S. Patent No. 9,016,617.
Hin Meng Au	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,284,049 and 9,321,530.
Feng Ma	Foley & Lardner LLP 3000 K Street, N.W. Ste. 500 Washington, DC 20007	Prosecution of the applications for U.S. Patent Nos. 9,284,049 and 9,321,530.
Yuanyuan (Elsa) Ma	Anova	DJI's sales, financials (sales, margins, and costs), and pricing.
Ting Liu	Anova	DJI's sales, financials (sales, margins, and costs), and pricing.

Name	Contact Information	Subject
Michael Perry	Anova	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Chaowen Zheng (Danny)	Anova	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Fazhan Chen		Design and development of the accused products and Autel's knowledge of DJI's patent portfolio.

Name	Contact Information	Subject
Individuals at each Autel entity named in this suit		Knowledge of: (i) the design, development, functionality, and operation of Defendants' accused products; (ii) past and potential future sales, revenues, and profits relating to Defendants' accused products; (iii) advertising and promotion of Defendants' accused products; (iv) advantages and benefits offered by Defendants' accused products over the prior art and/or competing products; (v) customer implementations and uses of Defendants' accused products and interactions with customers regarding same; (vi) the value of the patented inventions; (vii) the marketplace for Defendants' accused products and competing products; (viii) notice of the patents-in-suit; and (ix) willful infringement of the patents-in-suit.

2. Documents and Things in the Possession, Custody, or Control of DJI That May Be Used to Support DJI's Claims.

DJI has in its possession, custody or control the following categories of documents, electronically stored information, and tangible things that DJI may use to support its claims. The disclosure provided herein is based upon information reasonably available at this time. Documents protected by attorney-client and attorney work product privileges are not identified, categorized, or included herein. By disclosing the following categories of documents, DJI does not waive any objections that it has or may have to the production or admissibility of these documents. Moreover, by disclosing the following categories of documents, DJI does not waive

any objections that it has or may have to producing these documents. Further, by disclosing the following categories of documents, DJI does not admit or deny that any such documents exist. DJI expressly reserves the right to identify additional documents, electronically stored information, and/or tangible things, if it discovers that such additional documents, electronically stored information, and/or tangible things are relevant to this action.

- Documents relating to U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, including their prosecution file histories, and foreign counterparts thereto;
- Documents relating to DJI's advertising, marketing and sales of its products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514;
- Documents and things relating to the development and manufacture of DJI's products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514;
- Documents identified in Autel's initial disclosures, discovery responses and any amendments thereto;
- Documents relating to the commercial unmanned vehicle industry and technology;
- Communications between DJI and Autel; and
- Communications between Autel and third parties.

These documents, to the extent their locations are known, are located either at the offices of DJI or its counsel.

3. Computation of Damages

DJI is currently seeking both an injunction and damages in the case. DJI seeks damages adequate to compensate for Defendants' infringement. DJI anticipates seeking its lost profits, including any lost sales, price erosion, and lost convoyed sales and derivative sales, as damages for Defendants' infringement of the Patents-in-Suit for all past, current and future time periods

during which Defendants are liable for such infringement. In the event DJI is not awarded its lost profits, DJI will seek damages in the form of a reasonable royalty for Defendants' infringement of the Patents-in-Suits for all past, current and future time periods during which Defendants are liable for such infringement. In either event, DJI will seek interest and costs as fixed by the Court. DJI will provide a detailed computation of damages after damages-related discovery, including information relating to sales of Defendants' accused products, is made available by Defendants and after such information has been evaluated by an expert witness. As this is an exceptional case, DJI also seeks reasonable and necessary attorneys' fees. DJI further seeks treble damages to compensate DJI for Defendants' willful infringement. To the extent allowable by law, DJI seeks its attorneys' fees, costs, expenses, and pre- and post-judgment interest on its claims, and such other relief as the Court may deem appropriate either at law or in equity.

In accordance with Federal Rule of Civil Procedure 26(a)(1)(A)(iii), DJI will make available for inspection and copying, as required under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which DJI's damages computation is based. DJI will also produce documents relating to its attorneys' fees, costs, and expenses at the conclusion of this action when such an award is requested.

4. Insurance Agreements

Upon current information and belief, DJI is unaware of any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

Of Counsel

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Dated: February 24, 2017

/s/ Christine D. Haynes

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Attorneys for Plaintiffs
SZ DJI Technology Co. Ltd. and
DJI Europe B.V.

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2017, true and correct copies of the foregoing document were served, via e-mail, on the following:

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/s/ Christine D. Haynes

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EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD. and
DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants.

AUTEL ROBOTICS USA LLC, and AUTEL
ROBOTICS CO., LTD. (f/k/a AUTEL AERIAL
TECHNOLOGY CO., LTD.),

Counterclaim Plaintiffs,

v.

SZ DJI TECHNOLOGY CO., LTD., DJI
EUROPE B.V., and DJI TECHNOLOGY INC.

Counterclaim Defendants.

C.A. No. 16-706-LPS
(Consolidated)

JURY TRIAL DEMANDED

**SZ DJI TECHNOLOGY CO., LTD. AND DJI EUROPE B.V.’S
SUPPLEMENTAL INITIAL DISCLOSURES**

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Plaintiffs SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, “DJI”) hereby serve the following supplemental initial disclosures to Defendants Autel Robotics USA LLC and Autel Intelligent Technology Co., Ltd. (collectively, “Autel”). These disclosures are based upon information presently and reasonably known and available to DJI as of the date hereof, and currently within its possession, custody or control. DJI reserves the right to supplement or amend these disclosures in the future as

appropriate, as provided in Rule 26(e), as additional information becomes available during the course of the above-captioned case.

These initial disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, or any other proper ground; (2) the right to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; (3) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures; and (4) the right to amend, modify, clarify, or supplement the information contained herein in the event it obtains additional information, to the extent required by the Federal Rules of Civil Procedure.

Subject to and without waiving the foregoing reservations, DJI makes the following initial disclosures.

1. Identities of Individuals Likely to Have Discoverable Information That May Be Used to Support DJI's Claims or Defenses.

All individuals listed below whose contact information states "Anova" are employees or former employees of DJI and may be contacted only through trial counsel for DJI at Anova Law Group PLLC. The general subject matter listed for each individual does not in any way limit DJI's right to question or call any individual listed to testify regarding any other subject.

In addition to the persons listed below, DJI reserves the right to rely upon all individuals and/or entities listed in Autel's initial disclosures. DJI expressly reserves the right to identify or call as witnesses other individuals in addition to those identified herein, if it discovers that such individuals have or might have knowledge of matters relevant to this action. DJI also expressly reserves the right to identify and call expert witnesses in accordance with Federal Rule of Civil Procedure 26(a)(2) and any scheduling order entered in this action.

Name	Contact Information	Subject
Tao Wang	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, and 9,284,040, and is likely to have knowledge about the claimed inventions.
Shaojie Chen	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, and is likely to have knowledge about the claimed inventions.
Tao Zhao	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, 9,284,040 and 9,592,744, and is likely to have knowledge about the claimed inventions.
Zhi Gang Ou	Anova	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and 9,284,040, and is likely to have knowledge about the claimed inventions.
Yin Cheung	DJI Research LLC 435 Portage Avenue Palo Alto, CA 94306	Prosecution of the application for U.S. Patent No. 9,016,617 and 9,592,744.
Elaine Lee (Kim)	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, 9,284,040 and 9,592,744.
Karen Wong	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the application for U.S. Patent No. 9,016,617 and 9,592,744.
Connie Cheng	Wilson Sonsini Goodrich & Rosati 701 Fifth Avenue, Suite 5100 Seattle, WA 98104	Prosecution of the application for U.S. Patent No. 9,016,617.
Hin Meng Au	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,284,049, 9,321,530 and 9,592,744.

Name	Contact Information	Subject
Feng Ma	Foley & Lardner LLP 3000 K Street, N.W. Ste. 500 Washington, DC 20007	Prosecution of the applications for U.S. Patent Nos. 9,284,049 and 9,321,530.
Yuanyuan (Elsa) Ma	Anova	DJI's sales, financials (sales, margins, and costs), and pricing.
Ting Liu	Anova	DJI's sales, financials (sales, margins, and costs), and pricing.
Michael Perry	Anova	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Chaowen (Danny) Zheng	Anova	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>

Name	Contact Information	Subject
Individuals at each Autel entity named in this suit		Knowledge of: (i) the design, development, functionality, and operation of Defendants' accused products; (ii) past and potential future sales, revenues, and profits relating to Defendants' accused products; (iii) advertising and promotion of Defendants' accused products; (iv) advantages and benefits offered by Defendants' accused products over the prior art and/or competing products; (v) customer implementations and uses of Defendants' accused products and interactions with customers regarding same; (vi) the value of the patented inventions; (vii) the marketplace for Defendants' accused products and competing products; (viii) notice of the patents-in-suit; and (ix) willful infringement of the patents-in-suit.

2. Documents and Things in the Possession, Custody, or Control of DJI That May Be Used to Support DJI's Claims.

DJI has in its possession, custody or control the following categories of documents, electronically stored information, and tangible things that DJI may use to support its claims. The disclosure provided herein is based upon information reasonably available at this time. Documents protected by attorney-client and attorney work product privileges are not identified, categorized, or included herein. By disclosing the following categories of documents, DJI does not waive any objections that it has or may have to the production or admissibility of these documents. Moreover, by disclosing the following categories of documents, DJI does not waive

any objections that it has or may have to producing these documents. Further, by disclosing the following categories of documents, DJI does not admit or deny that any such documents exist. DJI expressly reserves the right to identify additional documents, electronically stored information, and/or tangible things, if it discovers that such additional documents, electronically stored information, and/or tangible things are relevant to this action.

- Documents relating to U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, 9,284,040 and 9,592,744 including their prosecution file histories, and foreign counterparts thereto;
- Documents relating to DJI's advertising, marketing and sales of its products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, 9,284,040 and 9,592,744;
- Documents and things relating to the development and manufacture of DJI's products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, 9,284,040 and 9,592,744;
- Documents identified in Autel's initial disclosures, discovery responses and any amendments thereto;
- Documents relating to the commercial unmanned vehicle industry and technology;
- Communications between DJI and Autel; and
- Communications between Autel and third parties.

These documents, to the extent their locations are known, are located either at the offices of DJI or its counsel.

3. Computation of Damages

DJI is currently seeking both an injunction and damages in the case. DJI seeks damages adequate to compensate for Defendants' infringement. DJI anticipates seeking its lost profits, including any lost sales, price erosion, and lost conveyed sales and derivative sales, as damages for Defendants' infringement of the Patents-in-Suit for all past, current and future time periods

during which Defendants are liable for such infringement. In the event DJI is not awarded its lost profits, DJI will seek damages in the form of a reasonable royalty for Defendants' infringement of the Patents-in-Suits for all past, current and future time periods during which Defendants are liable for such infringement. In either event, DJI will seek interest and costs as fixed by the Court. DJI will provide a detailed computation of damages after damages-related discovery, including information relating to sales of Defendants' accused products, is made available by Defendants and after such information has been evaluated by an expert witness. As this is an exceptional case, DJI also seeks reasonable and necessary attorneys' fees. DJI further seeks treble damages to compensate DJI for Defendants' willful infringement. To the extent allowable by law, DJI seeks its attorneys' fees, costs, expenses, and pre- and post-judgment interest on its claims, and such other relief as the Court may deem appropriate either at law or in equity.

In accordance with Federal Rule of Civil Procedure 26(a)(1)(A)(iii), DJI will make available for inspection and copying, as required under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which DJI's damages computation is based. DJI will also produce documents relating to its attorneys' fees, costs, and expenses at the conclusion of this action when such an award is requested.

DJI has already provided its expert report on damages for the 9,016,617, 9,284,049, 9,321,530, and D691,514 patents. DJI will provide its expert report on damages for 9,284,040 and 9,592,744 in accordance with the schedule in this Action.

4. Insurance Agreements

Upon current information and belief, DJI is unaware of any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

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*Attorneys for Plaintiffs
SZ DJI Technology Co. Ltd. and
DJI Europe B.V.*

Dated: May 11, 2018

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2018, true and correct copies of the foregoing document were served, via e-mail, on the following:

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/s/ Christine D. Haynes

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EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and
AUTEL AERIAL TECHNOLOGY CO.,
LTD.,

Defendants.

C.A. No. 16-706-LPS-CJB
(Consolidated)

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.

Counterclaim Plaintiffs,

v.

SZ DJI TECHNOLOGY CO., LTD., DJI
EUROPE B.V., and DJI TECHNOLOGY,
INC.,

Counterclaim Defendants.

DJI'S SECOND SUPPLEMENTAL INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1), Plaintiffs and Counterclaim Defendants SZ DJI Technology Co., Ltd. and DJI Europe B.V. and Counterclaim Defendant DJI Technology, Inc. (collectively, "DJI") hereby serve the following second supplemental initial disclosures to Defendants and Counterclaim Plaintiffs Autel Robotics USA LLC and Autel Robotics Co., Ltd. (f/k/a Autel Aerial Technology Co., Ltd.) (collectively, "Autel" or "Counterclaim Plaintiffs"). These disclosures are based upon information presently and

reasonably known and available to DJI as of the date hereof, and currently within its possession, custody or control. DJI reserves the right to supplement or amend these disclosures in the future as appropriate, as provided in Rule 26(e), as additional information becomes available during the course of the above-captioned case.

These initial disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, or any other proper ground; (2) the right to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; (3) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures; and (4) the right to amend, modify, clarify, or supplement the information contained herein in the event it obtains additional information, to the extent required by the Federal Rules of Civil Procedure.

Subject to and without waiving the foregoing reservations, DJI makes the following supplemental initial disclosures.

1. Identities of Individuals Likely to Have Discoverable Information That May Be Used to Support DJI's Claims or Defenses.

All individuals listed below whose contact information states "DJI's Counsel" are employees or former employees of DJI and may be contacted only through trial counsel for DJI at Morgan, Lewis & Bockius LLP or Anova Law Group PLLC. The general subject matter listed for each individual does not in any way limit DJI's right to question or call any individual listed to testify regarding any other subject.

In addition to the persons listed below, DJI reserves the right to rely upon all individuals and/or entities listed in Autel's initial disclosures and any supplements or amendments thereto. DJI expressly reserves the right to identify or call as witnesses other individuals in addition to

those identified herein, if it discovers that such individuals have or might have knowledge of matters relevant to this action. DJI also expressly reserves the right to identify and call expert witnesses in accordance with Federal Rule of Civil Procedure 26(a)(2) and any scheduling order entered in this action.

Name	Contact Information	Subject
Tao Wang	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, and 9,284,040, and is likely to have knowledge about the claimed inventions.
Shaojie Chen	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, and is likely to have knowledge about the claimed inventions.
Tao Zhao	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, 9,284,040 and 9,592,744, and is likely to have knowledge about the claimed inventions.
Zhi Gang Ou	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and 9,284,040, and is likely to have knowledge about the claimed inventions.
Yin Cheung	DJI's Counsel	Prosecution of the application for U.S. Patent No. 9,016,617 and 9,592,744.
Elaine Lee (Kim)	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, 9,284,040 and 9,592,744.
Karen Wong	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the application for U.S. Patent No. 9,016,617 and 9,592,744.

Name	Contact Information	Subject
Connie Cheng	University of Washington Entrepreneurial Law Clinic William H. Gates Hall, Suite 265 P. O. Box 85110 Seattle, WA 98145	Prosecution of the application for U.S. Patent No. 9,016,617.
Hin Meng Au	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,284,049, 9,321,530 and 9,592,744.
Feng Ma	Foley & Lardner LLP 3000 K Street, N.W. Ste. 500 Washington, DC 20007	Prosecution of the applications for U.S. Patent Nos. 9,284,049 and 9,321,530.
Yuanyuan (Elsa) Ma	DJI's Counsel	DJI's sales, financials (sales, margins, and costs), and pricing, including for DJI's accused products.
Ting Liu	DJI's Counsel	DJI's sales, financials (sales, margins, and costs), and pricing.
Michael Perry	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products, including for DJI's accused products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>

Name	Contact Information	Subject
Chaowen (Danny) Zheng	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Litian Zhang	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 7,979,174.
Bin Jiang	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 9,260,184.
Rongming Xiong	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 9,979,000.

Name	Contact Information	Subject
Individuals at each Autel entity named in this suit		<p>Knowledge of: (i) the design, development, functionality, and operation of Defendants' accused products; (ii) past and potential future sales, revenues, and profits relating to Defendants' accused products; (iii) advertising and promotion of Defendants' accused products; (iv) advantages and benefits offered by Defendants' accused products over the prior art and/or competing products; (v) customer implementations and uses of Defendants' accused products and interactions with customers regarding same; (vi) the value of the patented inventions; (vii) the marketplace for Defendants' accused products and competing products; (viii) notice of the patents-in-suit; and (ix) willful infringement of the patents-in-suit.</p> <p>In addition, knowledge of: (i) operations of Counterclaim-Plaintiffs; (ii) Counterclaim-Plaintiffs' claims and purported damages in this action; (iii) licensing policies and practices of Counterclaim Plaintiffs; (iv) the disclosure of prior art to the USPTO; (v) ownership of Counterclaim Plaintiffs' asserted patents; (vi) marking of Counterclaim Plaintiffs' asserted patents on practicing products; (vii) predecessor-in-interest to Counterclaim Plaintiffs' asserted patents; and (viii) licensees of Counterclaim Plaintiffs' asserted patents.</p>

Name	Contact Information	Subject
Kingsley O.C. Fregene	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Michael R. Elgersma	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Samar Dajani-Brown	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Stephen G. Pratt	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Scott V. Lundberg	Fogg & Powers LLC 4600 West 77th Street Suite 305 Minneapolis, MN 55435	Scott Lundberg signed filings with the USPTO during prosecution of U.S. Patent No. 7,979,174 and is likely to have knowledge about prosecution of U.S. Patent No. 7,979,174.
Jay A. Wahlquist	International Business Machines Corporation 3605 HWY 52 N Rochester, MN 55901	Jay Wahlquist signed filings with the USPTO during prosecution of U.S. Patent No. 7,979,174 and is likely to have knowledge about prosecution of U.S. Patent No. 7,979,174.
Representatives of Fogg & Powers LLC	5810 W. 78th Street, Ste. 100 Minneapolis, MN 55439	Prosecution of the application for U.S. Patent No. 7,979,174.
Representatives of Honeywell International Inc.	101 Columbia Road Law Dept. AB2 Morristown, NJ 07962	Previous owner of U.S. Patent No. 7,979,174 and is likely to have information regarding its ownership.

Name	Contact Information	Subject
Kurt Luther	Honeywell International Inc. 101 Columbia Road Law Dept. AB2 Morristown, NJ 07962	Assistant General Counsel of Honeywell International, Inc. and signatory of the Honeywell Patent Purchase Agreement regarding U.S. Patent No. 7,979,174. Mr. Luther may have information regarding the ownership of the '174 patent.
Orville Olm	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions.
Greg Wood	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions.
Zenon Dragan	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions. Mr. Dragan also may have information regarding the ownership of the '184 patent.
Joseph A. Rhoa	Nixon & Vanderhye, P.C. 901 N. Glebe Road Arlington, VA 22203	Joseph A. Rhoa signed filings with the USPTO during prosecution of U.S. Patent No. 9,260,184 and is likely to have knowledge about prosecution of U.S. Patent No. 9,260,184.
Representatives of Nixon & Vanderhye P.C.	901 N. Glebe Road Arlington, VA 22203	Prosecution of the application for U.S. Patent No. 9,260,184.
Representatives of Ladas & Parry LLP	224 South Michigan Ave Suite 1600 Chicago, IL 60604	Prosecution of the applications for U.S. Patent Nos. 7,979,174 and 9,260,184.
Representatives at Draganfly Innovations Inc.	2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Previous owner of U.S. Patent No. 9,260,184 and is likely to have information regarding its ownership.

Name	Contact Information	Subject
Glen Hawker	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Executive Chairman of the Board of Draganfly Innovations Inc. and signatory of the Autel Patent Purchase Agreement regarding U.S. Patent No. 9,260,184. Mr. Hawker may have information regarding the ownership of the '184 patent.
Longxue Qiu	9th Floor, Building B1, Zhiyuan, Xueyuan Road Xili, Nanshan District Shenzhen, Guangdong 518055 China	Named inventor for U.S. Patent No. 9,979,000 and is likely to have knowledge about the claimed invention.
Xingwen Wu	9th Floor, Building B1, Zhiyuan, Xueyuan Road Xili, Nanshan District Shenzhen, Guangdong 518055 China	Named inventor for U.S. Patent No. 9,979,000 and is likely to have knowledge about the claimed invention.
Richard John Streit	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Richard John Streit signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Hermine Valizadeh	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Hermine Valizadeh signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Adam Vincent Litteken	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Adam Vincent Litteken signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Ladas & Parry LLP	224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Ladas & Parry LLP is or was listed at the USPTO as counsel-of-record for U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.

Other individuals not specifically known to DJI at this time may possess relevant information, particularly information related to the non-infringement, unenforceability and/or invalidity of U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000 (“Autel Asserted Patents”). Such individuals may include, but are not limited to: (1) authors of prior art publications and patents relevant to the subject matter of the Autel Asserted Patents; (2) individuals having knowledge of any prior art use, sale, offer for sale, or invention relevant to the subject matter of the Autel Asserted Patents; (3) individuals having knowledge of the level of ordinary skill in the art to which the alleged inventions pertain; (4) individuals having knowledge of any license to the Autel Asserted Patents, any offer to license the Autel Asserted Patents, or any refusal to license the Autel Asserted Patents; (5) individuals having knowledge of the circumstances or manner in which the alleged inventions are disclosed in the Autel Asserted Patents; (6) individuals having knowledge of the inventorship, ownership, or rights in the Autel Asserted Patents and/or the subject matter of the Autel Asserted Patents; (7) individuals affiliated with prosecuting attorneys during the time that each attorney’s respective firm was involved in the prosecution of the Autel Asserted Patents; (8) individuals having knowledge of the operation and development of the accused DJI products; and (9) licensees of the Autel Asserted Patents.

2. Documents and Things in the Possession, Custody, or Control of DJI That May Be Used to Support DJI’s Claims.

DJI has in its possession, custody or control the following categories of documents, electronically stored information, and tangible things that DJI may use to support its claims. The disclosure provided herein is based upon information reasonably available at this time. Documents protected by attorney-client and attorney work product privileges are not identified, categorized, or included herein. By disclosing the following categories of documents, DJI does not waive any objections that it has or may have to the production or admissibility of these documents. Moreover,

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- Documents relating to DJI's advertising, marketing and sales of its products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, 9,284,040 and 9,592,744;
- Documents and things relating to the development and manufacture of DJI's products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, D691,514, 9,284,040 and 9,592,744;
- Documents relating to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000, including their prosecution file histories and foreign counterparts thereto;
- Prior art to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the design, development, features, production, distribution and operation of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the sales and finances of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the marketing and advertising of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to Autel's advertising, marketing and sales of its products;
- License agreements relating to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to assignment(s) of U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;

- Documents identified in Autel's initial disclosures, discovery responses and any amendments thereto;
- Documents relating to the commercial unmanned vehicle industry and technology;
- Communications between DJI and Autel; and
- Communications between Autel and third parties.

These documents, to the extent their locations are known, are located either at the offices of DJI or its counsel.

3. Computation of Damages

DJI is currently seeking both an injunction and damages in the case. DJI seeks damages adequate to compensate for Defendants' infringement. DJI anticipates seeking its lost profits, including any lost sales, price erosion, and lost convoyed sales and derivative sales, as damages for Defendants' infringement of DJI's Patents-in-Suit for all past, current and future time periods during which Defendants are liable for such infringement. In the event DJI is not awarded its lost profits, DJI will seek damages in the form of a reasonable royalty for Defendants' infringement of DJI's Patents-in-Suits for all past, current and future time periods during which Defendants are liable for such infringement. In either event, DJI will seek interest and costs as fixed by the Court. DJI will provide a detailed computation of damages after damages-related discovery, including information relating to sales of Defendants' accused products, is made available by Defendants and after such information has been evaluated by an expert witness. As this is an exceptional case, DJI also seeks reasonable and necessary attorneys' fees. DJI further seeks treble damages to compensate DJI for Defendants' willful infringement. To the extent allowable by law, DJI seeks its attorneys' fees, costs, expenses, and pre- and post-judgment interest, and such other relief as the Court may deem appropriate either at law or in equity.

In accordance with Federal Rule of Civil Procedure 26(a)(1)(A)(iii), DJI will make available for inspection and copying, as required under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which DJI's damages computation is based. DJI will also produce documents relating to its attorneys' fees, costs, and expenses in connection with its request for such an award at the appropriate time.

DJI has already provided its expert report on damages for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514. DJI will provide any expert reports on damages for U.S. Patent Nos. 9,284,040, 9,592,744, 7,979,174 9,260,184, and 9,979,000 in accordance with the schedule in this Action.

4. Insurance Agreements

Upon current information and belief, DJI is unaware of any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

Dated: July 13, 2018

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*Attorneys for Plaintiffs and Counterclaim
Defendants SZ DJI Technology Co. Ltd. and
DJI Europe B.V. and Counterclaim
Defendant DJI Technology, Inc.*

CERTIFICATE OF SERVICE

I, Amy M. Dudash, hereby certify that on July 13, 2018, a copy of *DJI's Second Supplemental Initial Disclosures* was served via electronic mail on the following counsel of record for Plaintiff:

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/s/ Amy M. Dudash
Amy M. Dudash (#5741)

EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and
AUTEL AERIAL TECHNOLOGY CO.,
LTD.,

Defendants.

C.A. No. 16-706-LPS-CJB
(Consolidated)

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.

Counterclaim Plaintiffs,

v.

SZ DJI TECHNOLOGY CO., LTD., DJI
EUROPE B.V., and DJI TECHNOLOGY,
INC.,

Counterclaim Defendants.

DJI'S THIRD SUPPLEMENTAL INITIAL DISCLOSURES

Pursuant to Federal Rule of Civil Procedure 26(a)(1), and Paragraph 6 of the Stipulation and [Proposed] Third Amended Scheduling Order (D.I. 348), Plaintiffs and Counterclaim Defendants SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, "DJI") hereby serve the following third supplemental initial disclosures to Defendants and Counterclaim Plaintiffs Autel Robotics USA LLC and Autel Robotics Co., Ltd. (f/k/a Autel Aerial Technology Co., Ltd.) (collectively, "Autel" or "Counterclaim Plaintiffs"). These disclosures are based upon information

presently and reasonably known and available to DJI as of the date hereof, and currently within its possession, custody or control. DJI reserves the right to supplement or amend these disclosures in the future as appropriate, as provided in Rule 26(e), as additional information becomes available during the course of the above-captioned case.

These initial disclosures are made without waiving: (1) the right to object on the grounds of competency, privilege, relevancy, materiality, hearsay, or any other proper ground; (2) the right to the use of any such information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; (3) the right to object on any and all grounds, at any time, to any other discovery request or proceeding involving or relating to the subject matter of these disclosures; and (4) the right to amend, modify, clarify, or supplement the information contained herein in the event it obtains additional information, to the extent required by the Federal Rules of Civil Procedure.

Subject to and without waiving the foregoing reservations, DJI makes the following supplemental initial disclosures.

1. Identities of Individuals Likely to Have Discoverable Information That May Be Used to Support DJI's Claims or Defenses.

All individuals listed below whose contact information states "DJI's Counsel" are employees or former employees of DJI and may be contacted only through trial counsel for DJI at Morgan, Lewis & Bockius LLP. The general subject matter listed for each individual does not in any way limit DJI's right to question or call any individual listed to testify regarding any other subject.

In addition to the persons listed below, DJI reserves the right to rely upon all individuals and/or entities listed in Autel's initial disclosures and any supplements or amendments thereto. DJI expressly reserves the right to identify or call as witnesses other individuals in addition to

those identified herein, if it discovers that such individuals have or might have knowledge of matters relevant to this action. DJI also expressly reserves the right to identify and call expert witnesses in accordance with Federal Rule of Civil Procedure 26(a)(2) and any scheduling order entered in this action.

Name	Contact Information	Subject
Tao Wang	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514, and is likely to have knowledge about the claimed inventions.
Shaojie Chen	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530 and D691,514, and is likely to have knowledge about the claimed inventions.
Tao Zhao	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530, and is likely to have knowledge about the claimed inventions.
Zhi Gang Ou	DJI's Counsel	Named inventor for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530, and is likely to have knowledge about the claimed inventions.
Yin Cheung	DJI's Counsel	Prosecution of the application for U.S. Patent No. 9,016,617.
Elaine Lee (Kim)	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,016,617, 9,284,049, and 9,321,530.
Karen Wong	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the application for U.S. Patent No. 9,016,617.

Name	Contact Information	Subject
Connie Cheng	University of Washington Entrepreneurial Law Clinic William H. Gates Hall, Suite 265 P. O. Box 85110 Seattle, WA 98145	Prosecution of the application for U.S. Patent No. 9,016,617.
Hin Meng Au	Wilson Sonsini Goodrich & Rosati 650 Page Mill Road Palo Alto, CA 94304-1050	Prosecution of the applications for U.S. Patent Nos. 9,284,049, and 9,321,530.
Feng Ma	Foley & Lardner LLP 3000 K Street, N.W. Ste. 500 Washington, DC 20007	Prosecution of the applications for U.S. Patent Nos. 9,284,049 and 9,321,530.
Yuanyuan (Elsa) Ma	DJI's Counsel	DJI's sales, financials (sales, margins, and costs), and pricing, including for DJI's accused products.
Chaowei (Allen) Zheng	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products, including for DJI's accused products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>

Name	Contact Information	Subject
Ye (Allen) Han	DJI's Counsel	<p>DJI's business, marketing, distribution, potential sales channels, customers, markets, competition, and products.</p> <p>Communication with DJI's customers and potential customers.</p> <p>Key features and commercial success of DJI's products.</p> <p>Competition and competitors to DJI.</p>
Litian Zhang	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 7,979,174.
Bin Jiang	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 9,260,184.
Rongming Xiong	DJI's Counsel	Technical and design aspects of DJI products accused of infringing U.S. Patent No. 9,979,000.

Name	Contact Information	Subject
Individuals at each Autel entity named in this suit		<p>Knowledge of: (i) the design, development, functionality, and operation of Defendants' accused products; (ii) past and potential future sales, revenues, and profits relating to Defendants' accused products; (iii) advertising and promotion of Defendants' accused products; (iv) advantages and benefits offered by Defendants' accused products over the prior art and/or competing products; (v) customer implementations and uses of Defendants' accused products and interactions with customers regarding same; (vi) the value of the patented inventions; (vii) the marketplace for Defendants' accused products and competing products; (viii) notice of the patents-in-suit; and (ix) willful infringement of the patents-in-suit.</p> <p>In addition, knowledge of: (i) operations of Counterclaim-Plaintiffs; (ii) Counterclaim-Plaintiffs' claims and purported damages in this action; (iii) licensing policies and practices of Counterclaim Plaintiffs; (iv) the disclosure of prior art to the USPTO; (v) ownership of Counterclaim Plaintiffs' asserted patents; (vi) marking of Counterclaim Plaintiffs' asserted patents on practicing products; (vii) predecessor-in-interest to Counterclaim Plaintiffs' asserted patents; and (viii) licensees of Counterclaim Plaintiffs' asserted patents.</p>

Name	Contact Information	Subject
Kingsley O.C. Fregene	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Michael R. Elgersma	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Samar Dajani-Brown	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Stephen G. Pratt	Honeywell International Inc. 101 Columbia Road P.O. Box 2245 Morristown, NJ 07962-2245	Named inventor for U.S. Patent No. 7,979,174 and is likely to have knowledge about the claimed inventions.
Scott V. Lundberg	Fogg & Powers LLC 4600 West 77th Street Suite 305 Minneapolis, MN 55435	Scott Lundberg signed filings with the USPTO during prosecution of U.S. Patent No. 7,979,174 and is likely to have knowledge about prosecution of U.S. Patent No. 7,979,174.
Jay A. Wahlquist	International Business Machines Corporation 3605 HWY 52 N Rochester, MN 55901	Jay Wahlquist signed filings with the USPTO during prosecution of U.S. Patent No. 7,979,174 and is likely to have knowledge about prosecution of U.S. Patent No. 7,979,174.
Representatives of Fogg & Powers LLC	5810 W. 78th Street, Ste. 100 Minneapolis, MN 55439	Prosecution of the application for U.S. Patent No. 7,979,174.
Representatives of Honeywell International Inc.	101 Columbia Road Law Dept. AB2 Morristown, NJ 07962	Previous owner of U.S. Patent No. 7,979,174 and is likely to have information regarding its ownership.

Name	Contact Information	Subject
Kurt Luther	Honeywell International Inc. 101 Columbia Road Law Dept. AB2 Morristown, NJ 07962	Assistant General Counsel of Honeywell International, Inc. and signatory of the Honeywell Patent Purchase Agreement regarding U.S. Patent No. 7,979,174. Mr. Luther may have information regarding the ownership of the '174 patent.
Orville Olm	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions.
Greg Wood	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions.
Zenon Dragan	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Named inventor for U.S. Patent No. 9,260,184 and is likely to have knowledge about the claimed inventions. Mr. Dragan also may have information regarding the ownership of the '184 patent.
Joseph A. Rhoa	Nixon & Vanderhye, P.C. 901 N. Glebe Road Arlington, VA 22203	Joseph A. Rhoa signed filings with the USPTO during prosecution of U.S. Patent No. 9,260,184 and is likely to have knowledge about prosecution of U.S. Patent No. 9,260,184.
Representatives of Nixon & Vanderhye P.C.	901 N. Glebe Road Arlington, VA 22203	Prosecution of the application for U.S. Patent No. 9,260,184.
Representatives of Ladas & Parry LLP	224 South Michigan Ave Suite 1600 Chicago, IL 60604	Prosecution of the applications for U.S. Patent Nos. 7,979,174 and 9,260,184.
Representatives at Draganfly Innovations Inc.	2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Previous owner of U.S. Patent No. 9,260,184 and is likely to have information regarding its ownership.

Name	Contact Information	Subject
Glen Hawker	Draganfly Innovations Inc. 2108 St. George Avenue Saskatoon, SK S7M 0K7 Canada	Executive Chairman of the Board of Draganfly Innovations Inc. and signatory of the Autel Patent Purchase Agreement regarding U.S. Patent No. 9,260,184. Mr. Hawker may have information regarding the ownership of the '184 patent.
Longxue Qiu	9th Floor, Building B1, Zhiyuan, Xueyuan Road Xili, Nanshan District Shenzhen, Guangdong 518055 China	Named inventor for U.S. Patent No. 9,979,000 and is likely to have knowledge about the claimed invention.
Xingwen Wu	9th Floor, Building B1, Zhiyuan, Xueyuan Road Xili, Nanshan District Shenzhen, Guangdong 518055 China	Named inventor for U.S. Patent No. 9,979,000 and is likely to have knowledge about the claimed invention.
Richard John Streit	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Richard John Streit signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Hermine Valizadeh	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Hermine Valizadeh signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Adam Vincent Litteken	Ladas & Parry LLP 224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Adam Vincent Litteken signed filings with the USPTO during prosecution of U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.
Ladas & Parry LLP	224 South Michigan Ave., Suite 1600 Chicago, IL 60604	Ladas & Parry LLP is or was listed at the USPTO as counsel-of-record for U.S. Patent No. 9,979,000 and is likely to have knowledge about prosecution of U.S. Patent No. 9,979,000.

Other individuals not specifically known to DJI at this time may possess relevant information, particularly information related to the non-infringement, unenforceability and/or invalidity of U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000 (“Autel Asserted Patents”). Such individuals may include, but are not limited to: (1) authors of prior art publications and patents relevant to the subject matter of the Autel Asserted Patents; (2) individuals having knowledge of any prior art use, sale, offer for sale, or invention relevant to the subject matter of the Autel Asserted Patents; (3) individuals having knowledge of the level of ordinary skill in the art to which the alleged inventions pertain; (4) individuals having knowledge of any license to the Autel Asserted Patents, any offer to license the Autel Asserted Patents, or any refusal to license the Autel Asserted Patents; (5) individuals having knowledge of the circumstances or manner in which the alleged inventions are disclosed in the Autel Asserted Patents; (6) individuals having knowledge of the inventorship, ownership, or rights in the Autel Asserted Patents and/or the subject matter of the Autel Asserted Patents; (7) individuals affiliated with prosecuting attorneys during the time that each attorney’s respective firm was involved in the prosecution of the Autel Asserted Patents; (8) individuals having knowledge of the operation and development of the accused DJI products; and (9) licensees of the Autel Asserted Patents.

2. Documents and Things in the Possession, Custody, or Control of DJI That May Be Used to Support DJI’s Claims.

DJI has in its possession, custody or control the following categories of documents, electronically stored information, and tangible things that DJI may use to support its claims. The disclosure provided herein is based upon information reasonably available at this time. Documents protected by attorney-client and attorney work product privileges are not identified, categorized, or included herein. By disclosing the following categories of documents, DJI does not waive any objections that it has or may have to the production or admissibility of these documents. Moreover,

by disclosing the following categories of documents, DJI does not waive any objections that it has or may have to producing these documents. Further, by disclosing the following categories of documents, DJI does not admit or deny that any such documents exist. DJI expressly reserves the right to identify additional documents, electronically stored information, and/or tangible things, if it discovers that such additional documents, electronically stored information, and/or tangible things are relevant to this action.

- Documents relating to U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514 including their prosecution file histories, and foreign counterparts thereto;
- Documents relating to DJI's advertising, marketing and sales of its products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514;
- Documents and things relating to the development and manufacture of DJI's products embodying one or more of U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514;
- Documents relating to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000, including their prosecution file histories and foreign counterparts thereto;
- Prior art to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the design, development, features, production, distribution and operation of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the sales and finances of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to the marketing and advertising of the devices accused of infringing U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to Autel's advertising, marketing and sales of its products;
- License agreements relating to U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;
- Documents relating to assignment(s) of U.S. Patent Nos. 7,979,174, 9,260,184, and 9,979,000;

- Documents identified in Autel's initial disclosures, discovery responses and any amendments thereto;
- Documents relating to the commercial unmanned vehicle industry and technology;
- Communications between DJI and Autel; and
- Communications between Autel and third parties.

These documents, to the extent their locations are known, are located either at the offices of DJI or its counsel.

3. Computation of Damages

DJI is currently seeking both an injunction and damages in the case. DJI seeks damages adequate to compensate for Defendants' infringement. DJI anticipates seeking its lost profits, including any lost sales, price erosion, and lost convoyed sales and derivative sales, as damages for Defendants' infringement of DJI's Patents-in-Suit for all past, current and future time periods during which Defendants are liable for such infringement. In the event DJI is not awarded its lost profits, DJI will seek damages in the form of a reasonable royalty for Defendants' infringement of DJI's Patents-in-Suits for all past, current and future time periods during which Defendants are liable for such infringement. In either event, DJI will seek interest and costs as fixed by the Court. DJI has provided a detailed computation of damages in Michele M. Riley's Expert Report on Damages dated December 22, 2017 and will provide a supplemental computation of damages after additional damages-related discovery, including information relating to sales of Defendants' accused products, is made available by Defendants and after such information has been evaluated by an expert witness. As this is an exceptional case, DJI also seeks reasonable and necessary attorneys' fees. DJI further seeks treble damages to compensate DJI for Defendants' willful infringement. To the extent allowable by law, DJI seeks its attorneys' fees, costs, expenses, and

pre- and post-judgment interest, and such other relief as the Court may deem appropriate either at law or in equity.

In accordance with Federal Rule of Civil Procedure 26(a)(1)(A)(iii), DJI has made available for inspection and copying, as required under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which DJI's damages computation is based and will make additional documents available, if any exist. DJI will also produce documents relating to its attorneys' fees, costs, and expenses in connection with its request for such an award at the appropriate time.

DJI has already provided its expert report on damages for U.S. Patent Nos. 9,016,617, 9,284,049, 9,321,530, and D691,514. DJI will provide any expert reports on damages for U.S. Patent Nos. 7,979,174 9,260,184, and 9,979,000 in accordance with the schedule in this Action.

4. Insurance Agreements

Upon current information and belief, DJI is unaware of any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

Dated: April 12, 2019

Of Counsel

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DJI Europe B.V. and Counterclaim
Defendant DJI Technology, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2019, a true and correct copy of the foregoing document was served, via e-mail, on the following:

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/s/ Amy M. Dudash
Amy M. Dudash (#5741)

EXHIBIT H



Annotation added by Autel: this photograph was produced by DJI on June 10, 2021 at BATES No. DJIATL_2000001







EXHIBIT I

Doc ID	Produced on	File Extension	File Name
DJIATL_2000001	6/10/2021	JPG	DJIATL_2000001_2014 Aug Flying Flame Wheel.JPG
DJIATL_2000002	6/10/2021	JPG	DJIATL_2000002_2014 Dec Flying Inspire 1.JPG
DJIATL_2000003	6/10/2021	JPG	DJIATL_2000003_2014 Dec Introducing DJI to Beijing Media.JPG
DJIATL_2000004	6/10/2021	JPG	DJIATL_2000004_2015 Feb Flying P2V+ in Australia(1).JPG
DJIATL_2000005	6/10/2021	JPG	DJIATL_2000005_2015 Feb Flying P2V+ in Australia.JPG
DJIATL_2000006	6/10/2021	JPG	DJIATL_2000006_2015 Feb Taking Interviews (https_kknews.cc_zh-sg_game_8qqeben.html).JPG
DJIATL_2000007	6/10/2021	JPG	DJIATL_2000007_2015 March P3 Launch in London.JPG
DJIATL_2000008	6/10/2021	JPG	DJIATL_2000008_2015 Oct Speaking at Osmo Launch Event in Beijing(1).JPG
DJIATL_2000009	6/10/2021	jpg	DJIATL_2000009_2015 Oct Speaking at Osmo Launch Event in Beijing.jpg
DJIATL_2000010	6/10/2021	PNG	DJIATL_2000010_2015 Sep Local Newspaper.PNG
DJIATL_2000011	6/10/2021	JPG	DJIATL_2000011_2015 speaking at New Pilot Experience Event in Beijing.JPG
DJIATL_2000012	6/10/2021	JPG	DJIATL_2000012_2016 CES Getting interviewed at CES.JPG
DJIATL_2000013	6/10/2021	JPG	DJIATL_2000013_2016 CES.JPG
DJIATL_2000014	6/10/2021	PNG	DJIATL_2000014_2016 CES.PNG
DJIATL_2000015	6/10/2021	JPG	DJIATL_2000015_2016 Introducing Mavic Pro to media at Mavic Pro Launch event in NY.JPG
DJIATL_2000016	6/10/2021	PNG	DJIATL_2000016_2016 Korea Flagship Store open.PNG
DJIATL_2000017	6/10/2021	JPG	DJIATL_2000017_2016 March P4 Launch Event in NY.JPG
DJIATL_2000018	6/10/2021	JPG	DJIATL_2000018_2016 March Proud Moment of P4 Launch.JPG
DJIATL_2000019	6/10/2021	JPG	DJIATL_2000019_2016 Nov Inspire 2 Launch in LA(1).JPG
DJIATL_2000020	6/10/2021	JPG	DJIATL_2000020_2016 Nov Inspire 2 Launch in LA.JPG
DJIATL_2000021	6/10/2021	png	DJIATL_2000021_2016 P4 Launch Shenzhen (https___www.youtube.com_watch_v=6Z7xxKRLEdo&lc=Ughl7ceZL74gmngCoAEC).png
DJIATL_2000022	6/10/2021	JPG	DJIATL_2000022_2016 Sep Mavic Pro Launch in NY.JPG
DJIATL_2000023	6/10/2021	JPG	DJIATL_2000023_2016 Speaking at SkyPixel event in Shanghai.JPG
DJIATL_2000024	6/10/2021	JPG	DJIATL_2000024_2017 Flying Mavic Pro at Singapore Trade show.JPG
DJIATL_2000025	6/10/2021	JPG	DJIATL_2000025_2017 Spark HK Bus Advertisement.JPG
DJIATL_2000026	6/10/2021	MP4	DJIATL_2000026_2017 Spark Launch billboard in NY.MP4

DJIATL_2000027	6/10/2021	JPG	DJIATL_2000027_2017 Spark Launch event in NY.JPG
DJIATL_2000028	6/10/2021	JPG	DJIATL_2000028_2018 Aug Mavic 2 NY Launch.JPG
DJIATL_2000029	6/10/2021	JPG	DJIATL_2000029_2018 Jan Mavic Air Launch in NY.JPG
DJIATL_2000030	6/10/2021	JPG	DJIATL_2000030_2018 Jan Mavic Air Launch.JPG
DJIATL_2000031	6/10/2021	JPG	DJIATL_2000031_2018 M2 Launch.JPG
DJIATL_2000032	6/10/2021	JPG	DJIATL_2000032_2018 Mavic 2 Launch working with Academy-winning Jimmy Chin.JPG
DJIATL_2000033	6/10/2021	JPG	DJIATL_2000033_2018 Nov Osmo Pocket Launch in NY.JPG
DJIATL_2000034	6/10/2021	JPG	DJIATL_2000034_2019 Oct Mavic Mini Launch in NY.JPG
DJIATL_2000035	6/10/2021	JPG	DJIATL_2000035_2019 RM S1 Media demo in NY.JPG
DJIATL_2000036	6/10/2021	mp4	DJIATL_2000036_A Cosmic Voyage with the DJI Mavic 2.mp4
DJIATL_2000037	6/10/2021	mp4	DJIATL_2000037_DJI Expedition Greenland Ski Mountaineering with Jimmy Chin.mp4
DJIATL_2000038	6/10/2021	mp4	DJIATL_2000038_DJI - Expedition Greenland_ Behind the Scenes with the Mavic 2.mp4
DJIATL_2000039	6/10/2021	mp4	DJIATL_2000039_DJI - Happy Holidays From Spark.mp4
DJIATL_2000040	6/10/2021	mp4	DJIATL_2000040_DJI - Inspire 2 Made-For-Cinema Drone Amazes with Live Action Scene.mp4
DJIATL_2000041	6/10/2021	mp4	DJIATL_2000041_dji-spark-around-the-world.mp4
DJIATL_2000042	6/10/2021	mp4	DJIATL_2000042_Folder 4 - 1 DJI - Red Bull One Shot Behind the Scenes.mp4
DJIATL_2000043	6/10/2021	mp4	DJIATL_2000043_Folder 4 - 2
DJIATL_2000044	6/10/2021	mp4	105885011_670445643503792_5730436933183865589_n.mp4
DJIATL_2000045	6/10/2021	mp4	DJIATL_2000044_Folder 4 - 3 ViewPoints Work from Home Compilation.mp4
DJIATL_2000046	6/10/2021	mp4	DJIATL_2000045_Folder 4 - 4 ViewPoints Work from Home Compilation.mp4
DJIATL_2000047	6/10/2021	mp4	DJIATL_2000046_Folder 4 - 5 marathon-1.mp4
DJIATL_2000048	6/10/2021	pdf	DJIATL_2000047_Folder 4 - 6 stay-home-stay-creative-winner-spotlight.mp4
DJIATL_2000049	6/10/2021	mp4	DJIATL_2000048_Folder 4 OsmoActionJimmyChin.pdf
DJIATL_2000050	6/10/2021	JPG	DJIATL_2000049_Folder 4 RR Freestyle StayHomeStayCreative - BlueConvert.com.mp4
DJIATL_2000051	6/10/2021	mp4	DJIATL_2000050_from 2016 CES.JPG
DJIATL_2000052	6/10/2021	mp4	DJIATL_2000051_Introducing the DJI Mavic 2.mp4
			DJIATL_2000052_Meet the DJI Smart Controller.mp4

DJIATL_2000053	6/10/2021	mp4	DJIATL_2000053_Transport Yourself with the DJI Mavic 2.mp4
DJIATL_2000054	6/10/2021	mp4	DJIATL_2000054_Try it All with the Mavic 2 - Control Time.mp4
DJIATL_2000055	6/10/2021	mp4	DJIATL_2000055_Try it All with the Mavic 2 - Flexible Optical Zoom.mp4
DJIATL_2000056	6/10/2021	mp4	DJIATL_2000056_Try it All with the Mavic 2 - See More with a Powerful Sensor.mp4
DJIATL_2000057	6/10/2021	mp4	DJIATL_2000057_DJI Introducing Spark.mp4
DJIATL_2000058	6/10/2021	mp4	DJIATL_2000058_DJI - Introducing the DJI Spark (NYC Event Livestream).mp4
DJIATL_2000059	6/10/2021	mp4	DJIATL_2000059_DJI - Mavic - Adventure at Your Fingertips (Live Event) - BlueConvert.com.mp4
DJIATL_2000060	6/10/2021	mp4	DJIATL_2000060_DJI - Mavic - Adventure at Your Fingertips -Live Event.mp4
DJIATL_2000061	6/10/2021	mp4	DJIATL_2000061_DJI Mavic 2 Engineered to Amaze.mp4
DJIATL_2000062	6/10/2021	mp4	DJIATL_2000062_DJI - Mavic 2 - Grossglockner.mp4
DJIATL_2000063	6/10/2021	mp4	DJIATL_2000063_DJI - Phantom 4 Launch Reactions - BlueConvert.com.mp4
DJIATL_2000064	6/10/2021	mp4	DJIATL_2000064_DJI - Phantom 4 Launch Reactions.mp4
DJIATL_2000065	6/10/2021	mp4	DJIATL_2000065_DJI - Red Bull One Shot Behind the Scenes.mp4
DJIATL_2000066	6/10/2021	mp4	DJIATL_2000066_DJI - See the Bigger Picture - Aug 23, 2018.mp4
DJIATL_2000067	6/10/2021	mp4	DJIATL_2000067_DJI - Seize The Moment - May 24, 2017.mp4
DJIATL_2000068	6/10/2021	mp4	DJIATL_2000068_DJI - Spark - Born to Win.mp4
DJIATL_2000069	6/10/2021	mp4	DJIATL_2000069_DJI - Spark - Capture Every Moment.mp4
DJIATL_2000070	6/10/2021	mp4	DJIATL_2000070_DJI - Spark - NYC Launch Event Recap.mp4
DJIATL_2000071	6/10/2021	mp4	DJIATL_2000071_DJI - Spark - Possibilities.mp4
DJIATL_2000072	6/10/2021	mp4	DJIATL_2000072_DJI - Spark - Spark Your Imagination.mp4
DJIATL_2000073	6/10/2021	mp4	DJIATL_2000073_DJI Inspire 2Made-For-CinemaDrone Amazes with Live Action Scene - BlueConvert.com.mp4
DJIATL_2000074	6/10/2021	mp4	DJIATL_2000074_DJI Mavic 2 - Rapid Recap.mp4
DJIATL_2000075	6/10/2021	mp4	DJIATL_2000075_720.mp4.mp4

С926 J:TE-CA-0010E-ГБ2 ДОСНУМІ 05А-8 ЕІІ69 08150\5Т Б9д6 02 01 358 Б9д6ІD #: 524110

EXHIBIT J

ORAL ORDER: The Court, having reviewed Plaintiff Guardant Health, Inc.'s ("Guardant") discovery dispute motion in which it moves to preclude Defendant Foundation Medicine, Inc.'s ("FMI") CEO, Cindy Perettie, from testifying at trial, (the "Motion"), (D.I. 413), and the parties' letter briefs relating thereto, (D.I. 417; D.I. 420), and having heard telephonic argument on April 27, 2020, HEREBY GRANTS Guardant's Motion for the following reasons: (1) On March 19, 2020, FMI served amended initial disclosures adding an additional FMI witness, Ms. Perettie. Guardant requests that the Court preclude Ms. Perettie from testifying at trial, arguing that she should have been earlier disclosed pursuant to Federal Rule of Civil Procedure 26(a)(1)(A). (D.I. 417 at 1) That is an understatement. FMI's disclosure was not only untimely, it was substantially untimely. According to FMI, the need to disclose a new witness who would "describe the company and its mission[.]" (D.I. 420 at 3), was prompted by the October 2019 departure of FMI's Chief Commercial Officer ("COO"), Thomas Civik, who, prior to his departure, was going to cover this ground at trial, (id. at 1). However, FMI did not move to disclose a new witness then, or in a few weeks after Mr. Civik's departure. Instead, it claims that it needed to wait an additional three months, until January 2020, when a replacement COO was hired. Did it amend its disclosures then? No. Instead, according to FMI, this new hire simply prompted it to BEGIN a "thorough process" to decide whom it should designate, a process that took between two and three additional months to conclude, culminating in the March 19, 2020 amended disclosures that identified Ms. Perettie (who has been with FMI since February 2019). (Id.) All of this delay occurred while the case was then in its late stages, heading toward trial. "Untimely" does not do this "process" justice. (2) The Pennypack factors militate in favor of Guardant's request. It is true that the second and third Pennypack factors probably lean in favor of FMI. The Court is not sure exactly what new discovery would be required as to Ms. Perettie, but it assumes that because the trial is now not set to occur until November 2020, that discovery could occur without displacing the trial date. (That said, adding any additional discovery to an already heavily-litigated case that is still undergoing additional depositions and document production well after the close of fact discovery, during the COVID-19 crisis, is not without challenge.). (See, e.g., D.I. 414 at 3-7) However, though the Pennypack factors may be very forgiving, they are not a sieve. And indeed, the remaining factors go against FMI. The first Pennypack factor, which considers surprise or prejudice, would clearly go Guardant's way, as Guardant was undoubtedly surprised to see FMI's CEO named on FMI's initial disclosures for the first time in March 2020 (for all of the reasons set out above) and would be prejudiced to have to respond to that disclosure at this late stage. With respect to the fourth Pennypack factor, while the Court would not use the term "bad faith," this is the second time that the Court has found that FMI made late disclosures in violation of Rule 26(a)(1)(A) (and Ms. Perettie is the fourth witness that FMI has untimely disclosed). (See D.I. 263); see *Integra LifeScis. Corp. v. HyperBranch Med. Tech., Inc.*, Civil Action No. 15-819-LPS-CJB, 2018 WL 3814614, at *3 (D. Del. Mar. 23, 2018). The Court has to infer that FMI made a knowing decision to take months and months to disclose a new witness, well after the fact discovery cutoff, presumably thinking that such delay would be countenanced. And the fifth Pennypack factor favors Guardant. FMI acknowledges that Ms. Perettie will not be testifying about the "technical issues at the heart of this litigation or offering expert testimony." (D.I. 420 at 2) While testimony describing the company "and its mission" will no doubt be helpful in this case, FMI has

two current employees (a Director of Product Development Informatics and Systems Integration and a Vice President of Finance) listed on its disclosures (as well as former employees who held high-level positions) who could address this topic at trial. (D.I. 417 at 3; D.I. 420 at 1); (3) Accordingly, the Court finds that the Pennypack factors weigh in favor of grant of Guardant's Motion. Ordered by Judge Christopher J. Burke on 4/28/2020. (mlc) (Entered: 04/28/2020)

As of April 29, 2020, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

Guardant Health, Inc. v. Foundation Medicine, Inc.

1-17-cv-01616 (DDE), 4/28/2020, docket entry 423

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD. and DJI
EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants/Counterclaim Plaintiffs,

v.

DJI TECHNOLOGY INC., SZ DJI
TECHNOLOGY CO., LTD., and DJI
EUROPE B.V.,

Counterclaim Defendants.

C.A. No. 16-706-LPS
(Consolidated)

**DJI'S OPPOSITION TO AUTEL'S MOTION *IN LIMINE* NO. 1
TO PRECLUDE TESTIMONY OF LEXIE MA AND RICHARD DISSMAN**

I. INTRODUCTION

DJI respectfully requests that the Court deny Autel’s motion in *limine* no. 1 to preclude trial testimony from Lexie Ma (DJI’s Head of Consumer Marketing) and Richard Dissman (DJI’s patent counsel in a German proceeding involving a design patent-in-suit). Autel pays lip service to the Third Circuit’s demanding standard for evidentiary preclusion, but falls far short of meeting its burden to demonstrate that this extreme sanction is warranted. Autel then complains regarding DJI’s “late” disclosure of Ms. Ma and Mr. Dissman, but ignores its own eve-of-trial belated witness disclosures. Autel’s conclusory assertions fail to carry the significant burden to demonstrate that Ms. Ma and Mr. Dissman should be precluded from testifying.

II. ARGUMENT

“[T]he exclusion of critical evidence is an ‘extreme’ sanction, not normally to be imposed absent a showing of willful deception or ‘flagrant disregard’ of a court order by the proponent of the evidence.” *Myers v. Pennypack*, 559 F.2d 894, 905 (3d Cir. 1997). “Courts in the Third Circuit should exercise particular restraint in considering motions to exclude evidence [.]” as “[t]he Third Circuit has, on several occasions, manifested a distinct aversion to the exclusion of important testimony absent evidence of extreme neglect or bad faith on the part of the proponent of the testimony.” *ABB Air Preheater v. Regenerative Envtl. Equip.*, 167 F.R.D. 668, 671 (D.N.J. 1996).

A. The Court Should Permit Lexie Ma to Testify Regarding DJI, Products, and Marketing.

DJI intends to present Lexie Ma to testify at trial to introduce DJI as a company, introduce the products at issue in this case that DJI makes and sells, and describe the market conditions for DJI’s products and competing products from Autel and others.¹ Her testimony introducing DJI and on these issues is important to providing the jury with context for the issues they will be asked to address in this case. The design patent infringement claims, for example, necessarily involve

¹ Ms. Ma will not testify regarding technical features or engineering design of any products.

consideration of the parties' competing products and how they are marketed to consumers. DJI disclosed Ms. Ma as having knowledge regarding these issues when DJI identified her on its Rule 26 disclosures served in April 2021—over three months ago, prior to trial even being scheduled in this matter, and months before the parties' pretrial disclosures. Autel criticizes DJI's supposed lack of diligence in identification of Ms. Ma, but ignores that this case has been pending for nearly five years, and that, in that time, DJI (like Autel) has experienced employee turnover. Although Ms. Ma has been a DJI employee for a few years, the need to have her testify only recently became apparent when DJI's formerly-identified witness on precisely the same topics as Ms. Ma left DJI. *See* Autel MIL No. 1, Ex. F (July 13, 2018 Disclosures identifying now former DJI employee Michael Perry as having knowledge regarding same topics as Ms. Ma). Autel also claims that Ms. Ma's testimony is an unfair surprise. But, Autel knew DJI would have a witness testify on these topics at least as early as two years ago when DJI first identified a now-former DJI employee Mr. Perry as a witness with knowledge of DJI's product marketing. *See id.*

Autel's claims of "clear prejudice" fall flat. Neither the supposed (1) inability to seek discovery into Ms. Ma's documents or (2) inability to depose Ms. Ma demonstrate the requisite prejudice necessary for exclusion. First, Autel's claim to entitlement to document discovery from Ms. Ma is contrary to this Court's rules. DJI never disclosed Ms. Ma as an ESI custodian nor was it under an obligation to do so. Thus, no matter when Ms. Ma was disclosed as a potential witness, Autel would not be entitled to separate document discovery from her. Autel also ignores that during fact discovery, DJI produced dozens of marketing-related documents, including articles regarding the Accused Products—many of the documents that Ms. Ma will testify about a trial.

Autel's complaints regarding the supposed inability to depose Ms. Ma are likewise unfounded. In the over three months since DJI added Ms. Ma to its initial disclosures, Autel *never*

sought to depose her. Had Autel done so, DJI would have made her available for deposition. Trying to benefit from its own lack of diligence, Autel now claims it is too late to take Ms. Ma's deposition because doing so would "penalize" Autel's trial preparations. In addition to glossing over its failure to seek a deposition in a timely fashion, Autel ignores that such deposition is unnecessary as Autel already deposed Mr. Perry, DJI's earlier-identified marketing witness.

Autel's claims of bad faith are likewise unsupported. Autel criticizes DJI for pointing out employee attrition as support for DJI's disclosure of Ms. Ma. But, Autel can hardly claim relying on employee turnover is bad faith given that this is precisely the rationale Autel provided to excuse its disclosure of witnesses within weeks of trial and months after DJI made its disclosure of Ms. Ma and Mr. Dissman. Far from acting in bad faith, DJI has sought to reach a reasonable compromise with Autel to account for both parties' claimed need to substitute in different corporate witnesses for trial, seeking Autel's agreement to let both Ms. Ma and a later-disclosed Autel CEO testify at trial. *See* Counsel Email Exchange, Ex. 1 hereto. But, Autel refused.²

B. The Court Should Permit Mr. Dissman to Testify Regarding Outcome of a Related Proceeding.

Autel's request to exclude Mr. Dissman—DJI's German patent attorney in a German litigation where Autel was found to infringe DJI's German Design Registration that corresponds to the design patent-in-suit—should be summarily rejected. If Autel can introduce results from a Chinese litigation, then DJI should be permitted to rely on the outcome of the German litigation in order to rebut Autel's claim that its infringement was not willful because it mistakenly thought the outcome in China somehow meant Autel could not be found to infringe in other countries.

² Although DJI believes the Court should take an even-handed approach between the parties with respect to permitting reasonable, non-prejudicial witness substitution, the testimony of Joseph O'Hearn—a belatedly disclosed Autel engineer—is highly prejudicial to DJI for the reasons set forth in DJI's MIL No. 1. Thus, no matter the outcome of Autel's MIL No. 1, the Court should preclude Mr. O'Hearn from testifying.

Dated: July 28, 2021

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Respectfully submitted,

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EXHIBIT 1

From: Bickham, Timothy <tbickham@steptoe.com>

Sent: Tuesday, July 20, 2021 9:53 AM

To: Hsu-Hoffman, Ahren C. <ahren.hsu-hoffman@morganlewis.com>

Cc: Lyons, Michael J. <michael.lyons@morganlewis.com>; Nolan, Thomas Y. <thomas.nolan@morganlewis.com>

Subject: RE: DJI's MIL Topic #9 / Autel's MIL Topic #2

[EXTERNAL EMAIL]

Ahren,

Thank you for the proposal and Autel hopes that we can narrow the number of issues. Unfortunately we cannot agree on this particular issue. We don't view the circumstances of the timing of the disclosures of Ms. Ma and Mr. Warnas, or their scope of their potential testimony, as being equivalent.

Regards,

Tim

From: Bickham, Timothy

Sent: Tuesday, July 20, 2021 8:15 PM

To: Hsu-Hoffman, Ahren C. <ahren.hsu-hoffman@morganlewis.com>

Cc: Lyons, Michael J. <michael.lyons@morganlewis.com>; Nolan, Thomas Y. <thomas.nolan@morganlewis.com>

Subject: RE: DJI's MIL Topic #9 / Autel's MIL Topic #2

Ahren,

Thanks for the time yesterday afternoon and for your message below. I need to discuss the proposal but will try to get back to you in the morning Pacific time.

Regards,

Tim

From: Hsu-Hoffman, Ahren C. <ahren.hsu-hoffman@morganlewis.com>

Sent: Tuesday, July 20, 2021 3:14 PM

To: Bickham, Timothy <tbickham@steptoe.com>

Cc: Lyons, Michael J. <michael.lyons@morganlewis.com>; Nolan, Thomas Y. <thomas.nolan@morganlewis.com>

Subject: DJI's MIL Topic #9 / Autel's MIL Topic #2

Tim,

Nice talking with you at the last meet and confer. As we discussed, Autel disclosed Randall Warnas as a proposed live witness just a few days ago, while DJI disclosed Lexie Ma as a potential witness months ago, back in April. We each have stated objections to these witnesses.

In the interest of trying to resolve as many disputes in advance and without the Court's intervention, we write to propose that the parties agree to terms that will allow each of these witnesses to introduce his and her respective companies at trial. If Autel will agree to drop its objection to Lexi Ma testifying to introduce DJI as a company, talk at a high, marketing level about the products her company makes and sells (those at issue in the case, of course), and

describe the market conditions for DJI's products and competing products from Autel and others, DJI will not object to Mr. Warnas providing like-kind testimony concerning Autel and its products. We would agree that each witnesses' testimony would be limited to these topics so, for example, Mr Warnas would not testify about his work at DJI or what he learned there.

Please let us know if these terms are acceptable to Autel.

Best,
Ahren

Ahren C. Hsu-Hoffman

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.)	
AND DJI EUROPE B.V.,)	
)	
Plaintiffs,)	
)	
v.	)	C.A. No. 16-706-LPS
	)	(CONSOLIDATED)
AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Defendants.)	

AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Counterclaim Plaintiffs,)	
)	
v.)	
)	
SZ DJI TECHNOLOGY CO., LTD.,)	
DJI EUROPE B.V., AND DJI)	
TECHNOLOGY INC.,)	
)	
Counterclaim Defendants.)	

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION *IN LIMINE* NO. 1
TO PRECLUDE PLAINTIFFS FROM CALLING UNTIMELY WITNESSES
LEXIE MA AND RICHARD DISSMANN AT TRIAL**

Dated: July 31, 2021

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Autel prepared its defenses based on the discovery record. Now, almost two years after fact discovery closed, DJI wants Ms. Ma to testify at trial even though she has been a DJI employee for **seven years** and she was only identified as having relevant knowledge **three months** ago.

DJI's argument that Ms. Ma merely replaces former employee Michael Perry does not justify its late disclosure. Mr. Perry was deposed in 2017 as a corporate representative. Mr. Perry left DJI shortly after his deposition and a year before fact discovery closed in 2019. D.I. 390. Yet, DJI waited **three years** to inform Autel of this change in circumstance. DJI also asserts Mr. Perry was not designated "on precisely the same topics as Ms. Ma," but its own corporate disclosure contradicts that assertion. The description for Ms. Ma states that she has knowledge "especially with respect to the United States." Mr. Perry's does not. *See* Autel's MIL 1, Ex. B at 6.

DJI's argument that Autel did not suffer any prejudice by its inability to depose Ms. Ma because "DJI **never disclosed** Ms. Ma as an ESI custodian" also does not justify the late disclosure and is a classic red herring. Had DJI disclosed Ms. Ma, Autel could have deposed her irrespective of ESI status. According to a case DJI cites, all these facts establish a "flagrant disregard of a Court order" which warrants exclusion. Opp. at 1 (citing *Myers v. Pennypack*, 559 F.2d 894, 905 (3d Cir. 1997)); *see also Liqwd, Inc. v. L'Oreal USA, Inc.*, C.A. No. 17-14-JFB-SRF, 2019 WL 7945247, at *1-2 (D. Del. June 25, 2019). DJI cites no other law to support a different outcome. *Cooke v. Phelps*, No. 17-CV-00781-CFC, 2019 WL 6307769, at *3 (D. Del. Nov. 25, 2019) ("[A]rguments raised in passing ... but not squarely argued, are considered waived."). Tellingly, DJI's opposition does not address or distinguish any legal authority cited in Autel's motion.

Regarding Mr. Dissman, DJI does not argue for his inclusion but focuses only on the relevance of German proceedings to this case. Opp. at 3. Accordingly, Autel respectfully requests that the Court grant its motion to exclude both Ms. Ma and Mr. Dissman from testifying at trial.

Dated: July 31, 2021

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
AND DJI EUROPE B.V.,

Plaintiffs,

V.

AUTEL ROBOTICS USA LLC AND
AUTEL AERIAL TECHNOLOGY CO.,
LTD.,

Defendants.

**C.A. No. 16-706-LPS
(CONSOLIDATED)**

**CONTAINS
CONFIDENTIAL INFORMATION**

AUTEL ROBOTICS USA LLC AND
AUTEL AERIAL TECHNOLOGY CO.,
LTD.,

Counterclaim Plaintiffs,

V.

SZ DJI TECHNOLOGY CO., LTD.,
DJI EUROPE B.V., AND DJI
TECHNOLOGY INC.,

Counterclaim Defendants.

**DEFENDANTS' MOTION *IN LIMINE* NO. 2 TO EXCLUDE UNSUPPORTED
DJI EXPERT OPINIONS AND EVIDENCE NOT RELIED ON BY THE EXPERTS**

Dated: July 21, 2021

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Autel Robotics Co., Ltd.)*

Autel moves to preclude DJI from offering unsupported *expert* testimony from Drs. Janet and Braasche regarding two secondary considerations – *copying* and *praise of others*. At the same time, any *factual* evidence on alleged copying or praise that is not properly tied to the expert opinions (and none is) should also be excluded.

I. Dr. Janet’s and Dr. Braasch’s Unsupported *Expert* Opinions on Copying and Praise of Others Should Be Excluded.

Expert testimony is admissible only if “the testimony is based on sufficient facts or data,” and “*the expert has reliably applied the principles and methods to the facts of the case.*” Fed. R. Evid. 702(b)-(d) (emphasis added); *see also Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 597 (1993); *In re Paoli R.R. Yard PCB Litig.*, 35 F.3d 717, 749 (3d Cir. 1994). The validity reports of Drs. Janet and Braasche fail to provide facts relied upon in reaching their opinions, and do not tie their opinions to any such facts or analysis. In fact, Drs. Janet and Braasch each provides only one paragraph for each consideration (copying and praise) in their respective validity reports, which amount to nothing more than conclusory statements. Ex. A at ¶156 and ¶161; Ex. C at ¶54. Dr. Janet also mentions copying briefly in just one paragraph addressing only the ’049 patent. Ex. E at ¶157. Furthermore, DJI should not be allowed to bolster their glaring deficiencies at trial because Autel has not been provided an opportunity to analyze or rebut any new or supplemental opinions based on evidence not previously identified or relied on by DJI’s experts.

Copying. In his validity report, Dr. Janet fails to identify any materials considered in reaching his unsupported conclusions about alleged copying, instead making a vague reference to his Opening Report on Infringement. Ex. A at ¶156. Dr. Janet’s supplemental infringement opinion for the ’049 patent is based solely on the allegation that products made by others look like DJI’s products and therefore must have been copied. Ex. E at ¶157. Similarly, Dr. Braasch mentions copying in passing, citing back to DJI’s infringement contentions. *See* Ex. C at ¶¶52-

54. Neither Dr. Braasch's infringement report nor the cited infringement contentions discuss copying.¹ And more fundamentally, infringement and copying are different inquiries, such that similarities between a patent and an accused product do not, on their own, establish copying. *Liqwd, Inc. v. L'Oreal USA, Inc.*, 941 F.3d 1133, 1136-37 (Fed. Cir. 2019). "Copying requires *duplication* of features of the patentee's work based on access to that work, *lest all infringement be mistakenly treated as copying.*" *Institut Pasteur & Universite Pierre Et Marie Curie v. Focarino*, 738 F.3d 1337, 1347-48 (Fed. Cir. 2013) (emphasis added). Drs. Janet's and Braasch's opinions are legally insufficient, and are based on allegations (even if true) that cannot establish copying. *Id.* DJI should not be allowed to present unreliable and unsupported opinions at trial, especially as such unfounded and legally insufficient suggestions of copying can be highly prejudicial before a jury.² FRE 403; *Sonos, Inc. v. D&M Holdings Inc.*, C.A. No. 14-1330-WCB, 2017 WL 5633204, at *3 (D. Del. Nov. 21, 2017) (internal citations omitted).

Praise by others. Here, Dr. Janet provides no analysis of any of the "evidence" he claims to have "seen." Ex. A at ¶161. In the lone paragraph in his validity report directed to praise by others, Dr. Janet provides only a string cite, but a string cite cannot constitute proper expert opinion. Fed. R. Evid. 702(b)-(d); *Daubert*, 509 U.S. at 597. Similarly, Dr. Braasch vaguely alludes to praise in the same sentence directed to copying, and merely cites the same *infringement* contentions, which not only is insufficient and improper as explained above, but crucially, also

¹ Dr. Braasch cited to DJI's "December 1, 2017 Infringement Contentions." But DJI served final contentions on November 17, 2017 and Opening Expert Report on Infringement on December 22 (Ex. D). DJI's Final Infringement Contentions do not address copying. DJI's Opening Expert Report on Infringement only addresses similarities between DJI's and Autel's products based on nothing more than Dr. Braasch's "visual comparison" / "visual inspection." Ex. D ¶¶62-67.

² DJI's Interrogatory Responses do not help it, as they do not identify a single piece of evidence on which DJI intends to rely to establish copying. Ex. B at DJI's Supp. and 2nd Supp. Resp. to Rog. No. 7. DJI's Second Supplemental Response cites back to its expert reports, which as explained do not provide adequate support.

have nothing to do with praise by others. Ex. C at ¶¶52-54. Indeed, Dr. Braasch's expert opinion in his validity report on praise by others is nothing more than a mention of the phrase "praise by others," and as expert reports are not mere placeholders for trial testimony, Dr. Braasch cannot now supplement and expand his conclusory opinion for the first time at trial. *See Brooke Grp. Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209 (1993) ("Expert testimony is useful as a guide to interpreting market facts, but it is not a substitute for them").

II. *Factual Evidence Related to Unsupported Expert Opinions Should Be Excluded*

Excluding Drs. Janet and Braasch's unsupported opinions renders any alleged factual evidence of copying or praise irrelevant under at least FRE 401 and 402, and prejudicial under FRE 403. Finally, to the extent DJI is permitted to present the barebones opinions related to other secondary considerations, DJI should be limited to presenting the factual evidence actually relied on by its experts, which for some of the secondary consideration is none. This includes, for example, any alleged evidence of copying that is not legally probative of copying but instead highly prejudicial. For example, DJI has signaled its intent to introduce testimony suggesting Autel has copied and/or is copying DJI's products. *See* Ex. F (Wang) at 159:13-19:

13 Q. I'm going to do what you heard, just close out
14 and keep asking until we are done. Anything else?
15 A. The fact that some other companies tried to
16 copy our products.
17 Q. Which other companies are those?
18 A. My understanding is Autel, and also we sued
19 Yuneec, so Yuneec is also copying.

See generally Ex. F (designations). Such allegations were not relied on by DJI's experts, have no legal significance or relevance to the claims at issue, and could be unduly prejudicial if presented to the jury. Such factual evidence should also be excluded.

Dated: July 21, 2021

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TAYLOR, LLP

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/s/ Anne Shea Gaza

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*Attorneys for Autel Robotics USA LLC and
Autel Aerial Technology Co., Ltd. (n/k/a
Autel Robotics Co., Ltd.)*

LIST OF EXHIBITS TO AUTEL'S MOTION *IN LIMINE* NO. 2

Exhibit	Description
A	Excerpts of Rebuttal Report of Dr. Janet in Response to Expert Report of Dr. Barrett Regarding Invalidity dated January 19, 2018 (Filed Under Seal)
B	DJI's Supplemental Responses to Defendants' Interrogatories dated November 17, 2017 and November 27, 2019 (Filed Under Seal)
C	Excerpts of Rebuttal Expert Report of Dr. Braasch in Response to Dr. Barrett's Expert Report Regarding Invalidity dated January 19, 2018 (Filed Under Seal)
D	Excerpts of Expert Report of Dr. Braasch dated December 22, 2017
E	Excerpts of Supplemental Rebuttal Report of Dr. Janet in Response to the Second Supp. Expert Report of Barrett re Invalidity dated January 23, 2020
F	Selected DJI's Deposition Designations

EXHIBIT A

FILED UNDER SEAL

CONTAINS DJI HIGHLY CONFIDENTIAL INFORMATION

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

SZ DJI Technology Co., Ltd. and)	
DJI Europe B.V.,)	
)	
Plaintiffs,	)	C.A. No. 16-706-LPS-CJB
)	
v.	)	JURY TRIAL DEMANDED
)	
Autel Robotics USA LLC,)	
Autel Aerial Technology Co., Ltd., and)	
)	
)	
Defendants.)	
)	

**REBUTTAL REPORT OF DR. J. A. JANÉT
IN RESPONSE TO
EXPERT REPORT OF PROFESSOR RON BARRETT REGARDING INVALIDITY**

EXHIBIT B

FILED UNDER SEAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC and
AUTEL AERIAL TECHNOLOGY CO., LTD.

Defendants.

C.A. No. 16-706-LPS

**PLAINTIFFS' SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
DEFENDANTS' FIRST AND SECOND SET OF INTERROGATORIES**

Plaintiffs SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, "DJI"), by their undersigned counsel, and pursuant to Federal Rule of Civil Procedure 33, hereby submits the following supplemental response to Defendants Autel Robotics USA LLC and Autel Aerial Technology Co. Ltd.'s ("Autel") First and Second Set of Interrogatories to DJI.

GENERAL OBJECTIONS

DJI hereby incorporates by reference its general objections to Autel's First Set of Interrogatories to DJI.

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

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*Attorneys for SZ DJI Technology Co., Ltd. and DJI
Europe B.V*

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

VERIFICATION

I hereby declare that I am authorized by Plaintiffs SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, “DJI”) to sign the foregoing PLAINTIFFS’ FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANTS’ FIRST AND SECOND SETS OF INTERROGATORIES and that the facts stated on DJI’s behalf therein are true and correct to the best of my knowledge, information and belief.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this ___ day of November, 2017



Zhe Wang

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2017, true and correct copies of the foregoing document were served, via e-mail, on the following:

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/s/ Christine D. Haynes

Christine D. Haynes (#4697)
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HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC and
AUTEL AERIAL TECHNOLOGY CO., LTD.

Defendants.

C.A. No. 16-706-LPS

**PLAINTIFFS' SECOND SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
DEFENDANTS' FIRST AND SECOND SET OF INTERROGATORIES**

Plaintiffs SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, "DJI"), by their undersigned counsel, and pursuant to Federal Rule of Civil Procedure 33, hereby submits the following second supplemental response to Defendants Autel Robotics USA LLC and Autel Aerial Technology Co. Ltd.'s ("Autel") First and Second Set of Interrogatories to DJI.

GENERAL OBJECTIONS

DJI hereby incorporates by reference its general objections to Autel's First Set of Interrogatories to DJI.

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

26(e).

Of Counsel

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Attorneys for Plaintiffs
SZ DJI Technology Co., Ltd. and
DJI Europe B.V.

Dated: November 27, 2017

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

VERIFICATION

I hereby declare that I am authorized by Plaintiffs SZ DJI Technology Co., Ltd. and DJI Europe B.V. (collectively, “DJI”) to sign the foregoing PLAINTIFFS’ SECOND SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANTS’ FIRST AND SECOND SETS OF INTERROGATORIES and that the facts stated on DJI’s behalf therein are true and correct to the best of my knowledge, information and belief.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 27th day of November, 2017



Zhe Wang

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2017, true and correct copies of the foregoing document were served, via e-mail, on the following:

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John Caracappa
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/s/ Christine D. Haynes
Christine D. Haynes (#4697)
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EXHIBIT C
FILED UNDER SEAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants.

C.A. No. 16-706-LPS-CJB

HIGHLY CONFIDENTIAL

REBUTTAL EXPERT REPORT OF MICHAEL S. BRAASCH
IN RESPONSE TO
EXPERT REPORT OF PROFESSOR RON BARRETT REGARDING INVALIDITY

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Athens, Ohio, on the 19th day of January 2018.

A handwritten signature in black ink, appearing to read "Michael S. Braasch", written in a cursive style.

Michael S. Braasch

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

C.A. No. 16-706-LPS-CJB

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants.

EXPERT REPORT OF MICHAEL S. BRAASCH

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Athens, Ohio, on the 22nd day of December 2017.

A handwritten signature in black ink, appearing to read "Michael S. Braasch", written over a horizontal line.

Michael S. Braasch

EXHIBIT E

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD. and DJI
EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.

Defendants.

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.

Counterclaim Plaintiffs,

v.

SZ DJI TECHNOLOGY CO., LTD., DJI
EUROPE B.V., and DJI TECHNOLOGY,
INC.,

Counterclaim Defendants.

C.A. No. 16-706-LPS-CJB

(Consolidated)

**SUPPLEMENTAL REBUTTAL REPORT OF DR. J. A. JANÉ
IN RESPONSE TO THE
SECOND SUPPLEMENTAL EXPERT REPORT OF PROFESSOR RON BARRETT
REGARDING INVALIDITY**

used to reduce electromagnetic interference, not just spacing of components. Prof. Barrett has offered no reason why a POSITA reading the Oakley '945 Publication and Miles would decide to use spacing rather than shielding to address any electromagnetic interference encountered with a UAV made according to the Oakley '945 Publication. Further, Oakley '945 does not disclose locating a magnetometer on a landing stand at all, much less one that is configured to bear weight of the UAV when the UAV is not airborne. Miles provides no obvious or compelling reason for a POSITA to place a magnetometer on the landing gear of the Oakley '945 Publication.

156. In my view, Prof. Barrett's argument is a "hodge-podge" of references that do not, alone or in combination, form a coherent basis for invalidating the '049 patent.

157. The non-obviousness of the '049 patent is further confirmed by its acceptance and copying in the industry after DJI filed its Chinese priority patent applications and released the DJI Phantom UAV. Before DJI's invention of a UAV with a magnetometer on an extension member that is a landing stand configured to bear the weight of a UAV when the UAV is not airborne, there are zero (0) prior art references or products with this feature. After DJI's invention, the following products emerged with a magnetometer on an extension member that is a landing stand configured to bear the weight of a UAV when the UAV is not airborne or a magnetometer that is at least 3cm and/or no more than 0.5 m from the one or more electrical components including a flight control module:

- 3D Robotics — Solo (see <https://www.youtube.com/watch?v=qczQUKSmLV0> (4'16"-5'10") and <https://www.youtube.com/watch?v=5jzKOa2lz-g> (1'35"-1'58")); Solo released in 2015 (see https://en.wikipedia.org/wiki/3D_Robotics)
- Xiaomi — Mi Drone (see <http://www.xiaomi4k.com/xiaomi-mi-drone-4k-user-manual/> ("Note: the compass is located on the landing gear."); Mi Drone released in 2016 (see

<https://www.theverge.com/circuitbreaker/2016/5/25/11767134/xiaomi-mi-drone-release-date-price-specs-features>)

- GoPro — Karma (see <https://www.youtube.com/watch?v=oxCXe6itq1Q> (0'29"-0'30" showing a connector that is believed to connect with the compass); Karma released in 2016 (see <https://en.wikipedia.org/wiki/GoPro>)
- Yuneec — Typhoon Q500 (see <https://www.youtube.com/watch?v=PxlLwVgjVnk> (0'01"-0'22" showing location of compass on landing gear); Typhoon Q500 released in 2014 (see <http://us.yuneec.com/about-us>)
- Autel X-Star and Evo (accused products)
- DJI Phantom and Mavic Series

B. The Utility Patents-in-Suit Are Not Invalid in View of the Prior Art

158. As mentioned above, it is my opinion that none of the prior art relied upon by Prof. Barrett renders any of claims 16-18, 21-24, 26-28, and 30 of the '049 patent invalid. Prof. Barrett asserts that the prior art references and combinations discussed in his report and attached Exhibits also render the remaining asserted claims invalid as anticipated and/or obvious. (Para. 103). I disagree for at least the reasons I provide in this report. To the extent Prof. Barrett is allowed to elaborate on the reasons why he believes the opinions set forth in his Supplemental Opening Report are applicable to other claims, I reserve the right to provide further responses to Prof. Barrett's opinions.

VI. CONCLUSION

159. For the reasons set forth in this report and attached appendices, it is my opinion that claims 16-18, 21-24, 26-28, and 30 of the '049 patent are valid. In addition, for the reasons set forth in this and my prior reports, including my Rebuttal Report, I continue to be of the opinion that the rest of the asserted claims of the '049 patent and the asserted claims of the '617 and '530 patents are valid.



DR. JASON A. JANÉT

January 23, 2020

EXHIBIT F
FILED UNDER SEAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC

-----x
In the matter of :
: Investigation No.:
: 337-TA-1133
CERTAIN UNMANNED AERIAL VEHICLES :
AND COMPONENTS THEREOF :
-----x

HIGHLY CONFIDENTIAL

Videotaped deposition of ZHUANPENG CHENG

VOLUME 1

Saturday, May 18, 2019

AT:

9:00 a.m.

Taken at:

Epiq HK
Room 1102-04
11/F Central Plaza
18 Harbour Road
Wan Chai, Hong Kong

Court Reporter:
KATHERINE SCHILLING, RPR
CA CSR No. 14163

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23 ALSO PRESENT:

24 PAUL HISCHIER, Videographer
25 AMANDA LIN, Interpreter
JUNHUI LIANG, Autel Robotics
CHERRY WU, Autel Robotics

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

- - - - -
IN THE MATTER OF)
SZ DJI TECHNOLOGY CO., LTD.)
AND DJI EUROPE B.V.,)
)
Plaintiff,)
) CIVIL ACTION NO:
v.) CA 16-706-LPS
)
AUTEL ROBOTICS USA LLC AND)
AUTEL AERIAL TECHNOLOGY CO., LTD.,)
Defendant.)
- - - - -

DEPOSITION OF JIANG JUNTIAN

VOLUME I

Monday, November 6th, 2017

AT: 9:18 a.m.

Taken at:

DTI Epiq
1102-1104 Central Plaza
18 Harbour Road
Wanchai
Hong Kong

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

Job No. WDC-150495

Pages: 1 - 107

Court Reporter:

Brandy Stull, California CSR No. 13383

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22 Also present from DJI: Jason Tang

23
24 VIDEOGRAPHER:

25 Chris Pang

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

- - - - -
IN THE MATTER OF)
SZ DJI TECHNOLOGY CO., LTD.)
AND DJI EUROPE B.V.,)
)
Plaintiff,)
) CIVIL ACTION NO:
v.) CA 16-706-LP
)
AUTEL ROBOTICS USA LLC AND)
AUTEL AERIAL TECHNOLOGY CO., LTD.,)
Defendant.)
- - - - -

DEPOSITION OF ZENG LIANG

VOLUME I

Wednesday, November 8th, 2017

AT: 9:18 a.m.

Taken at:

DTI Epiq
1102-1104 Central Plaza
18 Harbour Road
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Hong Kong

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

Job No. WDC-150497 Pages: 1 - 76

Court Reporter:

Brandy Stull, California CSR No. 13383

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18 Also present: Jason Tang

19 VIDEOGRAPHER:

20 Chris Pang
21
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

vs.

No. 16-706-LPS

AUTEL ROBOTICS USA, LLC,
and AUTEL AERIAL TECHNOLOGY CO., LTD.,

Defendants.

DEPOSITION OF

STEPHEN MCIRVIN

TAKEN ON
THURSDAY, DECEMBER 14, 2017
9:30 A.M.

NAEGELI DEPOSITION & TRIAL
601 UNION STREET, SUITE 1624
SEATTLE, WASHINGTON 98101

APPEARANCES

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

vs.

No. 16-706-LPS

AUTEL ROBOTICS USA, LLC,
and AUTEL AERIAL TECHNOLOGY CO., LTD.,

Defendants.

DEPOSITION OF

JEFF POWELL

TAKEN ON
THURSDAY, DECEMBER 14, 2017
1:09 P.M.

NAEGELI DEPOSITION & TRIAL
601 UNION STREET, SUITE 1624
SEATTLE, WASHINGTON 98101

APPEARANCES

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SZ DJI TECHNOLOGY CO., LTD and)	
DJI EUROPE B.V.,)	
)	
Plaintiffs,)	
)	No. 2:17-cv-00776-RAJ
vs.)	
)	
AUTEL ROBOTICS USA LLC; AUTEL)	
(USA), INC.; AUTEL AERIAL)	
TECHNOLOGY CO., LTD.; and)	
AUTEL INTELLIGENT TECHNOLOGY)	
CO., LTD.,)	
)	
Defendants.)	

Videotaped Deposition Upon Oral Examination
of
YUN ZHANG

**** THIS TRANSCRIPT MARKED HIGHLY CONFIDENTIAL ****

9:33 a.m.

October 3, 2017

1001 Fourth Avenue, Suite 3900

Seattle, Washington

Karmen Knudson, RPR, CRR

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD. and DJI
EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants/Counterclaim Plaintiffs,

v.

DJI TECHNOLOGY INC., SZ DJI
TECHNOLOGY CO., LTD., and DJI
EUROPE B.V.,

Counterclaim Defendants.

C.A. No. 16-706-LPS
(Consolidated)

**DJI'S OPPOSITION TO AUTEL'S MOTION *IN LIMINE* NO. 2
TO EXCLUDE EXPERT OPINIONS AND EVIDENCE NOT RELIED ON BY EXPERTS**

I. INTRODUCTION

DJI respectfully requests the Court deny Autel's motion *in limine* No. 2, which seeks to preclude DJI from presenting any factual or expert testimony bearing on secondary considerations of non-obviousness at trial. As to the expert testimony of DJI's expert witnesses, Dr. Jason Janet and Dr. Michael Braasch, Autel admits that its request is a disguised *Daubert* motion which is untimely, prejudicial, and unsupportable. Autel also separately moves to preclude DJI from presenting evidence relevant to secondary considerations of nonobviousness that is not cited in the expert reports of DJI's witnesses. This portion of Autel's motion should also be denied, as testimony relevant to secondary considerations of nonobviousness need not be presented in the form of expert testimony to be relevant—particularly so where the relevant evidence does not require extensive technical analysis in order to be understood by the jury.

II. ARGUMENT

A. Expert Testimony Relevant to Secondary Considerations of Nonobviousness

Although the deadline for *Daubert* motions has long since passed, Autel admits that its purported “motion *in limine*” is in reality a *Daubert* motion seeking to exclude the testimony of DJI's expert witnesses. *See* Mot. at 1-2 (seeking to exclude expert testimony pursuant to Fed. R. Evid. 702(b)-(d) and citing *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 597 (1993)). Given that the deadline to file *Daubert* motions passed more than a year ago—indeed, Autel filed a separate *Daubert* motion regarding the testimony of DJI's expert witness Michele M. Riley on February 18, 2020—this motion is irrefutably untimely despite Autel's failure to acknowledge this fact. Autel has been in possession of the expert reports it now uses to challenge Drs. Janet and Braasch's testimony for years and, to the extent they raised any genuine concerns, those should have been raised at the time Autel challenged Ms. Riley's opinion. This failure is

dispositive. Allowing Autel to raise a *Daubert* challenge on the eve of trial would be highly prejudicial to DJI—particularly in light of Autel’s complete failure to justify its untimely motion.

Autel’s motion is also unsupportable on the merits. The Federal Circuit “has repeatedly emphasized that the objective indicia constitute independent evidence of nonobviousness” and that they “may often be the most probative and cogent evidence of non-obviousness in the record.” *Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1378-79 (Fed. Cir. 2012) (internal quotations omitted). Because of their central importance to the obviousness analysis as a check against hindsight bias, the Federal Circuit “requires considerations of these objective indicia.” *Id.* (“Obviousness requires a court to walk a tightrope blindfolded (to avoid hindsight)—an enterprise best pursued with the safety net of objective evidence.”)

DJI’s experts’ analysis of the substantial similarities between the commercial embodiments and the accused products is highly probative of copying of DJI’s invention, a factor that weighs against a finding of obviousness. *See, e.g., Sonos, Inc. v. D&M Holdings Inc.*, CV 14-1330-WCB, 2017 WL 5633204, at *3 (D. Del. Nov. 21, 2017) (“Evidence of an alleged infringer’s copying or reverse engineering a competitor’s patented product is generally admissible . . . it is relevant to issues of inducement of infringement, willful infringement, or secondary considerations of obviousness.”). It is entirely appropriate for experts to focus on substantial similarities because direct evidence of copying is extremely rare. *See Wyers v. Master Lock Co.*, 616 F.3d 1231, 1246 (Fed. Cir. 2010) (“[A]ccess to the patented product combined with substantial similarity to the patented product [is relevant evidence of copying].”).

Autel’s motion ignores that DJI’s experts provide extensive analysis establishing the substantial similarity between its patented products and Autel’s infringing products, instead misdirecting focus to the portion of their reports where they provide their ultimate conclusions.

Both experts are well-qualified to render an opinion—informed by their detailed analysis of DJI and Autel products—that the DJI products were copied.

The same foundational analysis of how DJI’s products practice the asserted claims provides the basis for the experts’ opinions regarding industry praise for and commercial success of the patented inventions. Both experts link their previous analysis regarding the DJI products’ use of the patented inventions to evidence showing praise for those products and their reception in the marketplace. Preventing DJI from presenting this evidence would deprive the jury from the benefit of highly probative and relevant evidence which the Federal Circuit has recognized provides an objective guidepost for evaluating whether a challenged invention is nonobvious.

B. Fact Testimony Relevant to Secondary Considerations of Nonobviousness

Autel’s motion also seeks to limit the universe of evidence relevant to secondary considerations of nonobviousness which DJI may present at trial to only those documents which were cited in the expert reports of Drs. Janet and Braasch. Mot. at 3. Autel also seeks to exclude testimony which it contends is “not legally probative of copying but instead highly prejudicial” including evidence which “suggest[s] Autel has copied and/or is copying DJI’s products.” *Id.* But, as noted above, copying is undeniably relevant and must be considered whenever presented in the context of a nonobviousness inquiry. Moreover, copying need not be proven through direct evidence as Autel apparently contends, but rather may be shown through access to the patented invention and substantial similarity between the copied product and the product embodying the patented invention. Nor need it be presented in the form of expert testimony—particularly where the evidence does not require technical analysis in order for it to be presented in a form understandable to the jury. *See, e.g., Transocean Offshore Deepwater Drilling Inc. v. Maersk Drilling USA, Inc.*, 699 F.3d 1340, 1351-52 (Fed. Cir. 2012) (holding that articles and fact witness testimony were substantial evidence supporting jury’s nonobviousness findings).

Dated: July 27, 2021

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.)	
AND DJI EUROPE B.V.,)	
)	
Plaintiffs,)	
)	
v.	)	C.A. No. 16-706-LPS
)	(CONSOLIDATED)
AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Defendants.)	
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AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Counterclaim Plaintiffs,)	
)	
v.)	
)	
SZ DJI TECHNOLOGY CO., LTD.,)	
DJI EUROPE B.V., AND DJI)	
TECHNOLOGY INC.,)	
)	
Counterclaim Defendants.)	

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION *IN LIMINE* NO. 2
TO EXCLUDE UNSUPPORTED DJI EXPERT OPINIONS AND
EVIDENCE NOT RELIED ON BY THE EXPERTS**

Dated: July 31, 2021

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Because their opinions on secondary considerations were not supported by citations to evidence, Drs. Janet and Braasch cannot now give new or unsupported opinions to the jury. This leads to trial by ambush, forcing Autel's witnesses to react hastily to new evidence and arguments. Evidence not relied on by the experts to support their conclusory opinions likewise should be excluded. *See Leonard v. Stemtech Health Scis., Inc.*, 981 F. Supp. 2d 273, 280 (D. Del. 2013) (excluding evidence the expert "did not use [the evidence] in order to generate his conclusion").

DJI's characterization of Autel's motion as *Daubert* is incorrect. A motion in *limine* is indeed proper for excluding unsupported expert testimony and factual evidence not relied on by an expert. *See Leonard, supra*. DJI also ignores the case law in Autel's motion when it argues that its experts' opinions on **validity** are supported by the comparison of DJI's products to products in the **infringement report**.¹ *See Institut Pasteur & Universite Pierre Et Marie Curie v. Focarino*, 738 F.3d 1337, 1347–48 (Fed. Cir. 2013) ("Copying requires duplication of features of the patentee's work based on access to that work, lest all infringement be mistakenly treated as copying.")

DJI's argument that *factual* evidence is relevant to secondary considerations and need not be introduced through an expert is immaterial. Of course factual evidence can be offered through a fact witness – but it cannot be new evidence. And it is relevant to **only** the issue of obviousness and admissible when it was relied on by an expert to reach his opinion on the issue. Otherwise it must be excluded to prevent trial by ambush and undue surprise. *See, e.g., Leonard, supra*; Fed. R. Evid. 401-403. Tellingly, DJI does not propose to limit the evidence to that relied on by its experts because that would leave DJI with nothing.

¹ The product-to-product comparison is also subject to a motion in *limine* as there is a dispute on whether these products are commercial embodiments of any patents. Regardless, DJI's experts never explained how it ties with their opinions. *See Autel's MIL Nos. 2, 3 and Replies*.

Dated: July 31, 2021

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.)	
AND DJI EUROPE B.V.,)	
)	
Plaintiffs,)	
)	
v.	)	C.A. No. 16-706-LPS
)	(CONSOLIDATED)
AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Defendants.)	
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AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Counterclaim Plaintiffs,)	
)	
v.)	
)	
SZ DJI TECHNOLOGY CO., LTD.,)	
DJI EUROPE B.V., AND DJI)	
TECHNOLOGY INC.,)	
)	
Counterclaim Defendants.)	

**DEFENDANTS' MOTION *IN LIMINE* NO. 3 TO EXCLUDE
EVIDENCE AND TESTIMONY RELATED TO DJI'S PRODUCTS**

Dated: July 21, 2021

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Autel moves to preclude DJI from offering evidence or testimony comparing DJI's products to the accused products under the pretext of proving infringement. DJI's products are not relevant to the issue of infringement and should not be referenced in that context. To the extent DJI asserts its products are relevant to the issue of copying in the context of secondary considerations, Autel has addressed that in its MIL No. 2.

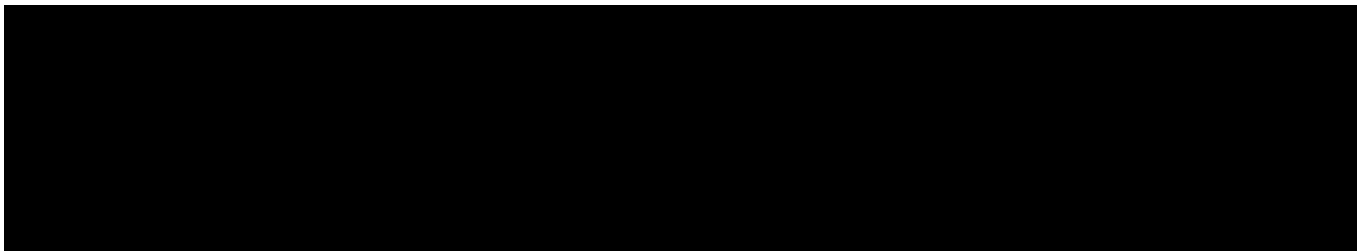
DJI's expert reports make clear that DJI is planning on proving its case by improper product-to-product comparisons. Yet, DJI bears the burden of proving infringement of patent claims on an element by element basis in the context of utility patents and by comparing the claims *protectable* design features to the accused products in the context of design patents. But, "a court may not predicate an infringement determination on a comparison of an accused product with a patentee's commercial embodiment of his claimed invention." *Card-Monroe Corp. v. Tuftco Corp.*, 270 F. Supp. 3d 967, 1017 (2017) (citing *Spectrum Int'l, Inc. v. Sterilite Corp.*, 164 F.3d 1372, 1381 (Fed. Cir. 1998)); *Int'l Visual Corp. v. Crown Metal Mfg. Co.*, 991 F.2d 768, 772 (Fed. Cir. 1993) ("Infringement is determined on the basis of the claims, not on the basis of a comparison with the patentee's commercial embodiment of the claimed invention."); *see also Warner-Jenkinson Co. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 40 (1997) ("framing the question for patent infringement as "[d]oes the accused product or process contain elements identical or equivalent to each element of the patented invention?"). DJI's proposed testimony and evidence not only improperly bolsters its products by introducing irrelevant information into the case, but is highly prejudicial to Autel because of the risk of confusion to the jury.

I. Evidence and testimony comparing DJI's products to the accused products should be excluded.

DJI's attempt to conduct a pictures-and-videos trial is highly prejudicial. DJI must come forward with evidence that falls within the well-established standards for proving infringement.

DJI's expert reports in conjunction with DJI's recent productions of documents make clear that DJI plans to put on a show comparing its products to the accused products and then vaguely attempting to tie that analysis to the claims. *See, e.g.*, Ex. A (Janet Inf. Rpt.) at p. 9, Figs. 1-2, pages 18-51; Ex. B (Braasch Inf. Rpt.) at ¶¶31, 43-44, 51; *see also* Autel's MIL No. 1, Ex. H (sample documents from DJI's June 10, 2021 production).

For example, Dr. Braasch notes that he arrived at his opinion by comparing the design of the Autel X-Star with "the design elements shown in the D'514 patent and embodied in the DJI Phantom." *See* Ex. B at ¶44; *see also id.* at ¶43, Tables 3-6. Dr. Braasch concludes "[b]ecause the DJI Phantom is an embodiment of the D'514 patent, it can be used in a direct comparison with the Autel UAV." *See* Ex. B at ¶51. In fact, Table 7 explicitly lines up the DJI Phantom 1 with the Autel products.



See Ex. B, Braasche Infringement Report, at p. 26

Also, Dr. Janet's report, in Section V and Section VI, compares the accused products with DJI's products as the titles of the subsections within Section V line up exactly with corresponding subsections in Section VI. *See* Ex. A at pp. 18-51, 53. Not only is DJI's analysis improper, it is also highly prejudicial. If jurors fixate on the apparent similarities between DJI products and Autel's products, they may assume that DJI's products are covered by the patents and that all features are relevant. Instead, their focus should be on the alleged inventions of each of the asserted patents. *See Gillette Co. LLC v. Dollar Shave Club, Inc.*, C.A. No. 15-1158-LPS-CJB, 2019 WL 1254773, at *2 (D. Del. Mar. 19, 2019) (finding that the expert's testimony comparing "a broader

asserted claim to a commercial embodiment of a narrower, unasserted claim” risked “confusing the jury and unfairly prejudicing Plaintiff . . . as Plaintiff is *not* contending that Defendants copied Plaintiff’s commercial embodiment, only that they allegedly copied Plaintiff’s patent).

II. Evidence and testimony generally featuring DJI’s products should be excluded.

DJI disclosed to Autel, as proposed exhibits, many pictures and videos of employees in various staged situations having what appears to be a fantastic time playing with DJI drones. *See* Autel’s MIL No. 1, Ex. H (DJI’s June 10, 2021 production). This type of evidence does not however make the existence of any relevant fact more or less probable. FRE 401; FRE 402. Instead, it improperly influences the jury and may lead to confusion. FRE 403; *ICU Med., Inc. v. RyMed Techs., Inc.*, 752 F. Supp. 2d 486, 493 (D. Del. 2010). Moreover, some of the evidence that falls within this category was introduced by DJI *years* after the close of discovery and on the eve of trial, together with its late disclosure of witnesses with alleged relevant knowledge – issues addressed in Autel’s MIL No. 1. *See* D.I. 390 (fact discovery closed on Sep., 29, 2017). *See, e.g., B. Braun Melsungen AG v. Terumo Med. Corp.*, 749 F. Supp. 2d 210, 221 (D. Del. 2010) (J. Stark).

III. In Phase II, evidence and testimony featuring DJI’s products should be limited.

If the case proceeds to Phase II, DJI should only be permitted to introduce evidence *probative* of issues related to alleged willfulness and alleged copying. DJI should not be, however, permitted to introduce comparisons of DJI’s products with Autel’s products if DJI is unable to present any evidence probative of actual copying. Autel has explained in MIL No. 2, albeit in the context of secondary considerations, that DJI’s evidence of alleged copying is based on speculation and visual similarities of the products; but no more. DJI should not be permitted to present any of such evidence without a proper proffer showing the relevance to copying under the proper legal framework. Infringement and copying are different inquiries. *See Liqwd, Inc. v. L’Oreal USA, Inc.*, 941 F.3d 1133, 1136-37 (Fed. Cir. 2019).

Dated: July 21, 2021

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Autel Robotics Co., Ltd.)*

LIST OF EXHIBITS TO AUTEL'S MOTION *IN LIMINE* NO. 3

Exhibit	Description
A	Expert Report of Dr. J. A. Janet for Patent Infringement dated December 22, 2017 (Filed Under Seal)
B	Expert Report of Dr. Michael S. Braasch dated December 22, 2017
C	Example Documents from DJI's June 10, 2021 production (photos of Lexie Ma with DJI in 2014, 2015 and 2016 produced on 6-10-2021 and labeled DJIATL_2000001, DJIATL_2000002, DJIATL_2000004 and DJIATL_2000014)

EXHIBIT A

FILED UNDER SEAL

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

SZ DJI Technology Co., Ltd. and)	
DJI Europe B.V.,)	
)	
Plaintiffs,	)	C.A. No. 16-706-LPS
)	
v.	)	JURY TRIAL DEMANDED
)	
Autel Robotics USA LLC,	)	HIGHLY CONFIDENTIAL
Autel Aerial Technology Co., Ltd., and)	
)	
)	
Defendants.)	
)	

REPORT OF DR. J. A. JANÉT FOR PATENT INFRINGEMENT

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.
and DJI EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC, and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants.

C.A. No. 16-706-LPS-CJB

EXPERT REPORT OF MICHAEL S. BRAASCH

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Athens, Ohio, on the 22nd day of December 2017.

A handwritten signature in black ink, appearing to read "Michael S. Braasch", written over a horizontal line.

Michael S. Braasch

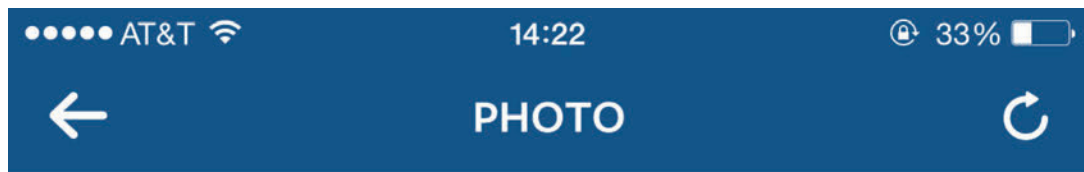
EXHIBIT C



Annotation added by Autel: this photograph was produced by DJI on June 10, 2021 at BATES No. DJIATL_2000001







1d



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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD. and DJI
EUROPE B.V.,

Plaintiffs,

v.

AUTEL ROBOTICS USA LLC and AUTEL
AERIAL TECHNOLOGY CO., LTD.,

Defendants/Counterclaim Plaintiffs,

v.

DJI TECHNOLOGY INC., SZ DJI
TECHNOLOGY CO., LTD., and DJI
EUROPE B.V.,

Counterclaim Defendants.

C.A. No. 16-706-LPS
(Consolidated)

**DJI'S OPPOSITION TO AUTEL'S MOTION *IN LIMINE* NO. 3
TO EXCLUDE EVIDENCE AND TESTIMONY RELATED TO DJI'S PRODUCTS**

I. INTRODUCTION

DJI respectfully requests the Court deny Autel's motion *in limine* No. 3 which seeks to preclude DJI from offering evidence or testimony comparing DJI's patent-embodiment products to Autel's products. *First*, DJI requests the Court deny Autel's motion because Autel misstates the law regarding the use of product-to-product comparisons for the purposes of proving infringement. *Second*, a product-to-product comparison is relevant to the issues of willfulness, copying, and other secondary indicia of nonobviousness. *Third*, a product-to-product comparison is necessary to support DJI's lost profits claim. *Finally*, evidence including DJI's products is relevant to give the jury context for this suit.

II. ARGUMENT

A. A Product-to-Product Comparison as Support for a Finding of Infringement

Autel contends that product-to-product comparisons cannot be used to demonstrate infringement. This is not correct. The Federal Circuit has expressly approved of comparing the accused product to its commercial embodiment to demonstrate infringement so long as the commercial embodiment meets the claim limitations. *See Adams Respiratory Therapeutics, Inc. v. Perrigo, Co.*, 616 F.3d 1283, 1289 (Fed. Cir. 2010) ("When a commercial product meets all of the claim limitations, then a comparison to that product may support a finding of infringement."). With design patents specifically, the "Federal Circuit has repeatedly held that where there is no significant distinction between the drawings of the design patent and a physical embodiment of that design created by the patentee, it is not error to allow a comparison of an embodiment of the patented design to the accused products." *Keystone Retaining Wall Sys., Inc. v. Rockwood Retaining Wall, Inc.*, CIV.00-496 (RHK/SRN), 2001 WL 36102284, at *8 (D. Minn. Oct. 9, 2001); *L.A. Gear, Inc., v. Thom McAn Shoe Co.*, 988 F.2d 1117, 1125 (Fed. Cir. 1993) ("When the patented design and the design of the article sold by the patentee are substantially the same, it

is not error to compare the patentee's and the accused articles directly."); *Braun Inc., v. Dynamics Corp. of Am.*, 975 F.2d 815, 821 (Fed. Cir. 1992) ("[I]n finding design patent infringement, a trier of fact may . . . rely exclusively or primarily on a visual comparison of the patented design, *as well as the device that embodies the design*, and the accused device's design.") (emphasis added). In addition, the design patent literally includes images of the Phantom, the commercial embodiment of the patent. By Autel's arguments, the design patent itself would be excluded because it invites a comparison to Autel's product.

B. A Product-to-Product Comparison as Support for Willfulness and Copying

The Court should deny Autel's motion to preclude DJI from comparing its products with Autel's products because Autel erroneously claims such evidence is not probative of issues related to willfulness and copying. Mot. at 3. A product-to-product comparison is relevant to both willfulness and secondary considerations of nonobviousness. *See, e.g., Sonos, Inc. v. D&M Holdings Inc.*, CV 14-1330-WCB, 2017 WL 5633204, at *3 (D. Del. Nov. 21, 2017) ("Evidence of an alleged infringer's copying or reverse engineering a competitor's patented product is generally admissible . . . it is relevant to issues of inducement of infringement, willful infringement, or secondary considerations of obviousness."). The Federal Circuit has also affirmed the relevance of commercial embodiments as evidence relevant to willful infringement and copying. *See, e.g., Riggs Marketing, Inc. v. Mitchell*, 194 F.3d 1338, 1999 WL 399710, at *4 (Fed. Cir. 1999) (unpublished) ("[I]ntroduction of Mitchell's commercial embodiment was relevant to Mitchell's charge that RMI willfully infringed its patent, inasmuch as it might show that RMI copied Mitchell's design."); *Wyers v. Master Lock Co.*, 616 F.3d 1231, 1246 (Fed. Cir. 2010) ("[A]ccess to the patented product combined with substantial similarity to the patented product [is relevant evidence of copying]."). DJI should be permitted to present evidence of the

substantial similarities between the commercial embodiments and accused products because these are probative of willfulness and secondary considerations of nonobviousness.

C. A Product-to-Product Comparison is Needed to Assess Lost Profits

The Court should also deny Autel's motion because a comparison between DJI's and Autel's competing products is needed to support DJI's claim for lost profits. The Federal Circuit has held lost sales of a product that directly competed with the infringing product are reasonably foreseeable. *See Rite-Hite Corp. v. Kelley Co., Inc.*, 56 F.3d 1538, 1546 (Fed. Cir. 1995) (en banc) ("Being responsible for lost sales of a competitive product is surely foreseeable . . . Such lost sales should therefore clearly be compensable.").

D. DJI's Products Provide Contextualizing Background Information

Lastly, the Court should deny Autel's broad motion to exclude any reference to DJI's products because background information on DJI's business and products is relevant to give the jury context for this suit. DJI's Phantom and its iconic design played a leading role in the development of the modern drone industry. The videos Autel seeks to exclude also do not introduce any new evidence relating to the technical features of the commercial embodiments or the accused products. Therefore, Autel's assertions that such evidence is irrelevant and confusing to the jury are insufficient grounds to exclude relevant evidence offered as background to help the jury contextualize the claims in this case. *See Ventriloscope v. MT Tool & Mfg.*, 16 C 5298, 2019 WL 12528939, at *2 (N.D. Ill. Feb. 22, 2019) ("[T]he Court cannot say that any evidence of or any reference to Plaintiff's products . . . are categorically irrelevant and prejudicial, even with a proper limiting instruction or if this evidence is offered for the purpose of providing background information about Plaintiff's business.").

Dated: July 27, 2021

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FOR THE DISTRICT OF DELAWARE**

SZ DJI TECHNOLOGY CO., LTD.)	
AND DJI EUROPE B.V.,)	
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Plaintiffs,)	
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v.)	C.A. No. 16-706-LPS
)	(CONSOLIDATED)
AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Defendants.)	

AUTEL ROBOTICS USA LLC AND)	
AUTEL AERIAL TECHNOLOGY CO.,)	
LTD.,)	
)	
Counterclaim Plaintiffs,)	
)	
v.)	
)	
SZ DJI TECHNOLOGY CO., LTD.,)	
DJI EUROPE B.V., AND DJI)	
TECHNOLOGY INC.,)	
)	
Counterclaim Defendants.)	

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION *IN LIMINE* NO. 3
TO EXCLUDE EVIDENCE AND TESTIMONY RELATED TO DJI'S PRODUCTS**

Dated: July 31, 2021

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DJI justifies product-to-product comparisons by relying on an ANDA case where the claim required an extended release product have a Cmax “equivalent” to the Cmax of an instant release product, so the patentee had to show infringement through bioequivalence. *Adams Respiratory Therapeutics, Inc. v. Perrigo Co.*, 616 F.3d 1283, 1286-87 (Fed. Cir. 2010). Such necessity does not exist here, and DJI cannot rely on an inapplicable exception to skirt the rule. On design patents, “[t]he infringement analysis *must* compare the accused product to the patented design, not to a commercial embodiment,” *Lanard Toys Ltd. v. Dolgencorp LLC*, 958 F.3d 1337, 1341 (Fed. Cir. 2020) (emphasis added), and DJI’s approach “risks relying on unclaimed and therefore irrelevant features as grounds for similarity or difference.” *Sun Hill Indus., Inc. v. Easter Unlimited, Inc.*, 48 F.3d 1193, 1196 (Fed. Cir. 1995). The jury may wrongly believe DJI’s entire product, not just its ornamental features, is protected, and DJI prematurely assumes its product is actually protected. As DJI insists its design patent already “literally includes . . . the commercial embodiment of the patent,” any product-to-product comparison is not only prejudicial, but also unnecessary.

Regarding willfulness and copying, Autel does not call for a blanket prohibition on product-to-product comparisons. But DJI must not *substitute* these comparisons for *actual* evidence of willfulness and copying. DJI does not even address Autel’s proposal, which DJI’s cited cases actually support. *See Wyers v. Master Lock Co.*, 616 F.3d 1231, 1246 (Fed. Cir. 2010).

Finally, DJI’s vague assertions regarding lost profits and “contextualizing” background information” all but confirm its intention to mislead the jury and improperly discharge its burden. Product-to-product comparisons do not satisfy any prerequisites for damages. And, tellingly, DJI’s assertion that its product and its “iconic design played a leading role” in the drone industry is precisely why such evidence should be excluded. Lack of veracity aside, such evidence offers no probative value, but is highly biased and self-serving, and will only confuse and mislead the jury.

Dated: July 31, 2021

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